

Extra Ordinary Part - IV / 2005

Extra No.	Date	Department
Extra No.1	25-01-2005	Legislative & Parliamentary Affairs Department
Extra No.2	25-02-2005	Legislative & Parliamentary Affairs Department
Extra No.3	25-02-2005	Legislative & Parliamentary Affairs Department
Extra No.4	25-02-2005	Legislative & Parliamentary Affairs Department
Extra No.5	25-02-2005	Legislative & Parliamentary Affairs Department
Extra No.6	25-02-2005	Legislative & Parliamentary Affairs Department
Extra No.7	25-02-2005	Legislative & Parliamentary Affairs Department
Extra No.8	25-02-2005	Legislative & Parliamentary Affairs Department
Extra No.9	02-03-2005	Legislative & Parliamentary Affairs Department
Extra No.10	05-03-2005	Legislative & Parliamentary Affairs Department
Extra No.11	21-03-2005	Legislative & Parliamentary Affairs Department
Extra No.12	21-03-2005	Legislative & Parliamentary Affairs Department
Extra No.13	21-03-2005	Legislative & Parliamentary Affairs Department
Extra No.14	21-03-2005	Legislative & Parliamentary Affairs Department
Extra No.15	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.16	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.17	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.18	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.19	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.20	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.21	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.22	23-03-2005	Legislative & Parliamentary Affairs Department
Extra No.23	23-03-2005	Legislative & Parliamentary Affairs Department

Extra No.	Date	Department
Extra No.24	01-04-2005	Legislative & Parliamentary Affairs Department
Extra No.25	01-04-2005	Legislative & Parliamentary Affairs Department
Extra No.26	11-04-2005	Legislative & Parliamentary Affairs Department
Extra No.27	16-05-2005	Other
Extra No.28	23-08-2005	Other
Extra No.29	15-09-2005	Legislative & Parliamentary Affairs Department
Extra No.30	15-09-2005	Legislative & Parliamentary Affairs Department
Extra No.31	15-09-2005	Legislative & Parliamentary Affairs Department



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI]

TUESDAY, JANUARY 25, 2005/MAGHA 5, 1926

Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 17th January, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 1 OF 2005.

(First published, after having received the assent of the President in the "*Gujarat Government Gazette*", on the 25th January, 2005).

AN ACT

to consolidate and amend the laws relating to the levy and collection of tax on value added basis in respect of sale or purchases of goods in the State of Gujarat.

It is hereby enacted in the Fifty-fourth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Value Added Tax Act, 2003.
- (2) It extends to the whole of the State of Gujarat.
- (3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions.

Short title,
extent and
and com-
mencement.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (1) "agriculture" with all its grammatical variations and cognate expressions includes floriculture, horticulture, the raising of crops, grass or garden produce, and grazing; but does not include dairy farming, poultry farming, stock breeding or the mere cutting of wood or grass or gathering of fruits;
- (2) "agriculturist" means a person who cultivates land personally for the purpose of agriculture;
- (3) "appointed day" means the 1st day of April, 2003;
- (4) "business" includes -
 - (i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make profit or gain and whether or not any profit or gain accrues from such trade, commerce, manufacture, adventure or concern; and
 - (ii) any transaction of buying, selling or supplying plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste products, or such other goods, or waste or scrap of any of them which is ancillary or incidental to or resulting from such trade, commerce, manufacture, adventure or concern;
- (5) "capital goods" means plant and machinery meant for use in manufacture and such other goods, as may be notified by the State Government from time to time in the *Official Gazette*;
- (6) "Central Act" means the Central Sales Tax Act, 1956;
- (7) "commission agent" means a dealer who *bonafidely* buys or sells, for an agreed commission, any goods on behalf of principals;
- (8) "Commissioner" means the person appointed to be the Commissioner of Commercial Tax for the purposes of this Act.
- (9) (a) "to cultivate" means to carry on any agricultural operation; and
 - (b) "to cultivate personally" means to cultivate on one's own account -
 - (i) by one's own labour, or
 - (ii) by the labour of one's own family, or
 - (iii) by servants on wages payable in cash or kind (but not in crop share), or by hired labour under one's personal supervision or the personal supervision of any member of one's family.

LXXIV of
1956.

Explanation I.— A widow or a minor or a person who is subject to any physical or mental disability, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour.

Explanation II.— In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally if it is cultivated by any member of such family;

- (10) "dealer" means any person who, for the purpose of or consequential to his engagement in or, in connection with or incidental to or in the course of his business buys, sells, manufactures, makes supplies or distributes goods, directly or otherwise, whether for cash or deferred payment, or for commission, remuneration or otherwise and includes,-
- (a) the Central Government or a State Government or any local authority such as municipality or municipal corporation or panchayat, a statutory authority, a company, a partnership firm, a Hindu Undivided Family or any society, club, association or body, incorporated or not, of persons which carries on business;
 - (b) a casual dealer, that is to say, a person who whether as principal, agent or in any other capacity, undertakes occasional transaction of a business nature in any exhibition-cum-sale or auction or otherwise in the State, whether for cash, deferred payment, commission, remuneration or other valuable consideration;
 - (c) an auctioneer, who sells or auctions goods belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of principal;
 - (d) a factor, broker, commission agent, *del credere agent* or an auctioneer or any mercantile agent, by whatever name called, who carries on business on behalf of any principal whether disclosed or not;
 - (e) any person who transfers, otherwise than in pursuance of a contract, property in any goods for cash, deferred payment or other valuable consideration;
 - (f) any person who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract;
 - (g) any person who delivers goods on hire purchase or any system of payment by installments;
 - (h) any person who transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and
 - (i) any person who supplies; by way of or as part of any service or in any other manner whatsoever, goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration.

Explanation.— (i) A society (including a co-operative society), club or firm or an association, which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, from or to its members or other persons for cash, deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be dealer for the purposes of this Act.

(ii) The Central Government or a State Government or a local authority or railway administration or port trusts or a statutory body, which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash, deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be dealer for the purposes of this Act.

(iii) Any person or body, which disposes of any goods including unclaimed, confiscated, unserviceable, scrap, surplus, old, obsolete, discarded, waste or surplus product or goods, whether by auction or otherwise, directly or through an agent, for cash deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be dealer for the purposes of this Act.

Exceptions.— The following shall not be deemed to be a dealer within the meaning of this clause, namely:—

(i) an agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally;

(ii) an individual who sells exclusively any fish or any sea-food caught by him personally or by any member of his family on account of or on behalf of such individual; and

(iii) a charitable, religious or educational institution, carrying on the activity of manufacturing, buying, selling or supplying goods, in performance of its functions, for achieving its avowed objects, which are not in the nature of business.

(11) "declared goods" means goods declared to be of special importance in inter-State trade or commerce under section 14 of the Central Act; LXXIV of 1956.

(12) "earlier law" means the Gujarat Sales Tax Act, 1969 and the Gujarat Purchase Tax on Sugarcane Act, 1989 as amended from time to time and enactments which have validated anything done or omitted to be done under the aforesaid Acts; Guj. 1 of 1970. Guj. 1 of 1989.

(13) "goods" means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes live stocks, all materials, articles and commodities and every kind of property (whether as goods or in some other form) involved in the execution of works contract; all intangible commodities and growing crops, grass, standing timber or things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale;

- (14) "manufacture" with its grammatical variations and cognate expressions means includes producing, making, extracting, collecting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods; but does not include such manufactures or manufacturing processes as may be prescribed;
- (15) "person" includes an individual, a joint family or Hindu Undivided Family, a company, a firm, an association of persons or body of individuals, whether incorporated or not, a society, club or other institution, a local authority, the Central Government or a State Government and every artificial juridical person not falling within any of the preceding descriptions;
- (16) "place of business" means any place where a dealer carries on business and includes,—
- (a) a warehouse, godown or other place where a dealer stores or processes his goods;
 - (b) any place where a dealer produces or manufactures goods;
 - (c) any place where a dealer keeps his books of accounts;
 - (d) any vehicle or vessel or any other carrier wherein the goods are stored or used for transporting the goods;
 - (e) any place of business of an agent by whatever name called through whom a dealer carries on business;
- (17) "prescribed" means prescribed by rules;
- (18) "purchase price" means the amount of valuable consideration paid or payable by a person for any purchase made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged and includes, —
- (a) in relation to —
 - (i) the transfer, otherwise than in pursuance of a contract of property in any goods,
 - (ii) the supply of goods by any unincorporated association or body of persons to a member thereof,
 - (iii) the supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating),
- the amount of cash, deferred payment or other valuable consideration paid or payable therefor,

5 of 1986.

52 of 1962.

- (b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable by a person for the execution of such works contract, the amount representing labour charges for such execution;
- (c) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable by a person for such delivery;
- (19) "raw materials" means goods used as ingredient in the manufacture of other goods and includes processing materials, consumable stores and material used in the packing of the goods so manufactured but does not include fuels for the purpose of generation of electricity;
- (20) "registered dealer" means a dealer registered under the provisions of this Act, who holds a certificate of registration granted or deemed to have been granted under this Act;
- (21) "resale" means a sale of purchased goods,-
- (i) in the same form in which they were purchased; or
 - (ii) without using them in the manufacture of any goods or without doing anything to them which amounts to or results in, a manufacture;
- and the word "resell" shall be construed accordingly;
- (22) "rules" means the rules made under this Act;
- (23) "sale" means a sale of goods made within the State for cash or deferred payment or other valuable consideration and includes,-
- (a) transfer, otherwise than in pursuance of a contract, of property in goods for cash, deferred payment or other valuable consideration,
 - (b) transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract,
 - (c) delivery of goods on hire purchase or any system of payment by installments,
 - (d) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration,
 - (e) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration,

- (f) supply of goods by a society or club or an association to its members on payment of a price or of fees or subscription or any consideration,
- (g) supply of goods by way of or as part of any service or in any other manner whatsoever, of
- (h) supply of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration,
- (i) supply by way of barter of goods,
- (j) disposal of goods by a person in the manner prescribed in Explanation (iii) to clause 10

but does not include a mortgage, hypothecation, charge or pledge; and the words "sell", "buy" and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly.

Explanation. - (i) - For the purposes of this clause, "sale within the State" includes a sale determined to be inside the State in accordance with the principles formulated in sub-section (2) of section 4 of the Central Act;

(ii) for the purpose of sub-clause (b) of the expression "works contract" means a contract for execution of works and includes such works contract as the State Government may, by notification in the *Official Gazette*, specify;

(iii) every transfer of property in goods by the Central Government, any State Government, a statutory body or a local authority for cash, deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act;

- (24) "sale price" means the amount of valuable consideration paid or payable to a dealer or received or receivable by a dealer for any sale of goods made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof, and includes, -

- (a) in relation to -
 - (i) the transfer, otherwise than in pursuance of a contract, of property in any goods,
 - (ii) the transfer of the right to use any goods for any purpose, whether or not for a specified period,
 - (iii) the supply of goods by any unincorporated association or body of persons to a member thereof,

- (iv) the supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating),

the amount of cash, deferred payment or other valuable consideration paid or payable therefor;

- (b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour charges for such execution;
- (c) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable to a person for such delivery;
- (25) "Schedule" means a Schedule appended to this Act;
- (26) "the State" means the State of Gujarat;
- (27) "tax" means a tax leviable and payable under this Act on sales or purchase of goods and includes lumpsum tax leviable or payable under section 14;
- (28) "tax period" means a calendar month or a quarter as may be prescribed by the State Government;
- (29) "taxable goods" means goods other than those on the sales or purchase of which no tax is payable under section 5;
- (30) "taxable turnover" means the turnover of all sales or purchases of a dealer during the prescribed period in any year, which remains after deducting therefrom,-
- (a) the turnover of sales not subject to tax under this Act;
- (b) the turnover of goods declared exempt under sub-section (1) of section 5 or under a notification under sub-section (2) of section 5, and
- (c) in case of turnover of sales in relation to works contract, the charges towards labour, service and other like charges, and subject to such conditions as may be prescribed:

Provided that in the cases where the amount of charges towards labour, service and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated in such manner as may be prescribed;

- (31) "Tribunal" means the tribunal constituted under section 19;

- (32) "turnover of purchases" means the aggregate of the amounts of purchase price paid or payable by a dealer in respect of any purchase of goods made by him during a given period after deducting the amount of purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period;
- (33) "turnover of sales" means the aggregate of the amount of sale price received or receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount of sale price, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period;
- (34) "total turnover" means aggregate of the following transactions effected by a dealer:
- (a) turnover of sales or purchases of goods within the State whether such sales or purchases of goods are taxable or exempt under this Act;
 - (b) turnover of sales of goods in the course of inter-State trade or commerce;
 - (c) turnover of sales of goods in the course of export of goods out of the territory of India;
 - (d) turnover of sales by a dealer on his own account and also on behalf of his principal.
- (35) "value of goods" means the value as ascertained from the purchase invoices or bills and includes insurance charges, excise duties, countervailing duties, value added tax, sales tax, transport charges, freight charges and all other charges incidental to the transaction of the goods:

Provided that where the purchase invoices or bills are not produced or when the goods are acquired or obtained otherwise than by way of purchase, the value of goods shall be the value at which the goods of like kind or quality are sold or are capable of being sold in open market;

- (36) "year" means –
- (i) in relation to any dealer who maintains regular books of accounts, the year by reference to which the accounts are maintained by him; and
 - (ii) in relation to any other dealer, a financial year :

Provided that a registered dealer shall not be entitled to vary the year by reference to which he maintains his books of accounts, except with the consent of the Commissioner and upon such conditions as the Commissioner may determine.

CHAPTER II**INCIDENCE AND LEVY OF TAX****Incidence of
tax.**

3. (1) Subject to the provisions of this Act, every dealer,-
- (i) whose total turnover during the year immediately preceding the appointed day exceeded rupees five lakhs and whose taxable turnover exceeded rupees ten thousand in a year (the aforesaid amounts of total turnover and taxable turnover are hereinafter referred to as "thresholds of turnover"), or
 - (ii) who was registered under the earlier law or under the Central Act as on the appointed day, or
 - (iii) whose total turnover and taxable turnover in any year first exceed the thresholds of turnover, or
 - (iv) who is registered or liable to be registered as a dealer under this Act or under the Central Act at any time after the appointed day

shall be liable to pay tax in accordance with the provisions of this Act.

(2) Notwithstanding anything contained in this section, a casual dealer or an auctioneer shall be liable to be registered if his taxable turnover of sales exceeds ten thousand rupees and he shall be liable to pay tax in accordance with the provisions of this Act.

(3) The dealer shall be liable to pay tax,—

- (a) in case of clauses (i) and (ii) of sub-section (1), with effect from the appointed day;
- (b) in case of clause (iii) of sub-section (1), with immediate effect when his turnover calculated from the commencement of the year first exceeds the thresholds of turnover;
- (c) in case of clause (iv) of sub-section (1), with immediate effect when he becomes so liable or the date of registration under this Act, whichever is earlier:

Provided that the dealer shall not be liable to pay tax in respect of thresholds of turnover as takes place during the period prior to the relevant date of effect under this sub-section.

(4) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of one year during which his total turnover and taxable turnover have remained below the thresholds of turnover and such further period after the date of such expiry as may be prescribed; and on the expiry of such further period his liability to pay tax shall cease:

Provided that any dealer whose liability to pay tax under this Act ceases or his total turnover and taxable turnover during the year remains below the thresholds of turnover, may apply for the cancellation of his certificate of

registration; and on such cancellation, his liability to pay tax shall cease and such dealer shall remain liable to pay tax till his certificate of registration is cancelled.

(5) Every dealer whose liability to pay tax under this Act has ceased under sub-section (4) or whose certificate of registration has been cancelled, shall, if his total turnover and taxable turnover calculated from the commencement of any year (including the year in which the registration has been cancelled) again exceed the thresholds of turnover, on any day within such year, be liable to pay tax with effect from the date immediately following the day on which his such turnover again exceed thresholds of turnover of sales effected by him after that date.

(6) Where by an order passed under this Act, it is found that any person registered as a dealer ought not to have been so registered, then, notwithstanding anything contained in this Act, such person shall be liable to pay tax for the period commencing with the date of his registration and ending with the date of such order, as if he were a dealer.

4. Nothing contained in this Act or the rules made thereunder shall be deemed to impose or authorise the imposition of tax on any sale or purchase of any goods where such sale or purchase takes place-

Certain sale
and pur-
chases not
liable to tax.

- (a) in the course of inter-State trade or commerce; or
- (b) outside the State; or
- (c) in the course of the import of goods into or export of goods out of the territory of India,

and the provisions of this Act and the rules thereunder shall be construed accordingly.

Explanation.- Section 3, 4 and 5 of the Central Act shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in clause (a), (b) or (c).

5. (1) The goods specified in the Schedule I shall be exempt from tax subject to the conditions and exceptions set out therein.

Exemptions.

(2) Subject to such conditions, as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *official gazette*,—

(a) exempt any class of sales or purchases from payment of the whole of the tax payable under the provisions of this Act.

(b) grant exemption from payment of whole of tax in respect of any class of sales or purchases for the purpose of promoting the scheme of Special Economic Zones or promoting exports.

(3) Every notification issued under sub-section (2) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make, during the session in which it is so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

6. Subject to the other provisions of this Act, every dealer, who is liable to pay tax under this Act, shall pay the tax leviable in accordance with the provisions of this Act.

Taxes
payable by a
dealer.

Levy of tax on
turnover of
sales and
rates of tax.

7. (1) Subject to the provisions of this Act, there shall be levied a tax on the turnover of sales of goods specified in Schedule II at the rate set out against each of them in the said Schedule.

(2) Subject to such conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, add to or omit from; or otherwise amend or modify the Schedule, prospectively or retrospectively, or transpose any entry or part of any entry from one Schedule to the other Schedule or reduce the rate of tax payable in respect of any goods and thereupon the Schedule shall be deemed to have been amended accordingly.

(3) Every notification issued under sub-section (2) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make, during the session in which it is so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Adjustments
in tax.

8. (1) The provisions of sub-section (2) shall apply where, in relation to the sales of taxable goods by any registered dealer-

(a) that sale has been cancelled; or

(b) the consideration previously agreed upon for that sale has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason; or

(c) the goods or part of the goods sold have been returned to the seller, and as a result of the occurrence of any one or more of the above-mentioned events of such sales, the seller has-

(i) provided a tax invoice in relation to that sale and the amount shown therein as tax charged on that sale is incorrect in relation to the amount properly chargeable on that sale; or

(ii) furnished a return in relation to the period in respect of which tax on that sale is attributable, and has accounted for an incorrect amount of tax on that sale in relation to the amount properly chargeable on that sale.

(2) Where a seller has accounted for either in the tax invoice or in the return an incorrect amount of tax as contemplated in sub-section (1), such seller shall make an adjustment in calculating the tax payable by him in the return for the tax period during which it has become apparent that the tax is incorrect. Such adjustment shall be made in the following manner, namely:-

(a) if the amount of tax chargeable in relation to that sale exceeds the amount of tax actually accounted for by the seller, the amount of that excess shall be deemed to be tax charged by such seller in relation to a taxable sale attributable to the tax period in which the adjustment is to be made, and shall not be attributable to any prior tax period; or

- (b) the amount of tax actually accounted for exceeds the amount of tax properly chargeable in relation to that sale, such seller shall reduce the amount of tax attributable to the said tax period in terms of section 7 by that excess amount of tax:

Provided that the reduction in the amount of tax under clause (b) shall not be made-

- (a) where the excess tax has been borne by the purchaser of goods, or
 (b) if the relevant event as described in sub-section (1) has occurred subsequent to the period of six months of the sales made by the dealer.

9. (1) Where a dealer who is liable to pay tax under this Act purchases any taxable goods from a person who is not a registered dealer, then there shall be levied on such dealer a purchase tax on the turnover of such purchases at the rate set out against each of such goods in Schedule II of this Act.

Levy of
purchase tax.

(2) Where a registered dealer purchases sugarcane from a person who is not a registered dealer, for the purpose of use thereof in the manufacture of sugar or *khandsari*, there shall be levied a purchase tax on the purchase of such sugarcane at the rate set out therefor in Schedule II of this Act.

(3) Where any person or dealer has purchased any taxable goods under a certificate or declaration given by him under any provision of this Act or earlier law, rule or notification, and the conditions, recitals or undertakings of such certificate or declaration are not complied with, then such person or dealer shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods in Schedule II of this Act or at the applicable rate of tax under the earlier law, whichever is higher.

10. Notwithstanding anything contained in this Act and contract of sale, where goods packed in any materials are sold, the materials in which the goods are so packed shall be deemed to have been sold or purchased alongwith the goods and the tax shall be leviable on such sales or purchases of the materials at the rate of tax, if any, as applicable to the sales or as the case may be, purchase of the goods themselves.

Rate of tax
on packing
materials.

11. (1)(a) A registered dealer who has purchased the taxable goods (hereinafter referred to as the "purchasing dealer") shall be entitled to claim tax credit equal to the amount of:-

Tax credit.

(i) tax collected from him, by a registered dealer who has sold such goods to him or the tax payable by him to a registered dealer who has sold such goods to him during the tax period, or

(ii) tax paid by him during the tax period under sub-section (1) or (2) of section 9.

(b) The tax credit to be so claimed under this sub-section shall be subject to the provisions of sub-sections (2) to (12); and the tax credit shall be calculated in such manner as may be prescribed.

(2) The registered dealer who intends to claim the tax credit shall maintain the register and the books of accounts in such manner as may be prescribed.

(3)(a) Subject to the provisions of this section, tax credit to be claimed under sub-section (1) shall be allowed to a purchasing dealer on his purchase of taxable goods which are intended for the purpose of-

- (i) sale or re-sale by him in the State;
- (ii) sale in the course of inter-State trade and commerce;
- (iii) branch transfer or consignment of taxable goods to other States (subject to the provision of sub-clause (b) below);
- (iv) sales in the course of export out of the territory of India;
- (v) sales to export oriented units or the units in Special Economic Zones for sale in the course of export out of the territory of India;
- (vi) use as raw material in the manufacture of taxable goods intended for (i) to (v) above or in the packing of the goods so manufactured:

Provided that if purchases are used partially for the purposes specified in this sub-section, the tax credit shall be allowed proportionate to the extent they are used for the purposes specified in this sub-section."

(b) Notwithstanding anything contained in this section, the amount of tax credit in respect of a dealer shall be reduced by the amount of tax calculated at the rate of four per cent. on the turnover of purchases-

- (i) of taxable goods consigned or dispatched for branch transfer or to his agent outside the State, or
- (ii) of taxable goods which are used as raw materials in the manufacture, or in the packing of goods which are dispatched outside the State in the course of branch transfer or consignment or to his agent outside the State.

(4) The tax credit shall not be claimed by the purchasing dealer until the tax period in which he receives from a registered dealer from whom he has purchased taxable goods, a tax invoice (in original) containing particulars as may be prescribed under sub-section (1) of section 60 evidencing the amount of tax.

(5) Notwithstanding anything contained in this Act, tax credit shall not be allowed for purchases-

- (a) made from any person other than a registered dealer under this Act;
- (b) made from a dealer who is not liable to pay tax under this Act;
- (c) made from a registered dealer who has been permitted under section 14 to pay lump sum amount of tax in lieu of tax;
- (d) made prior to the relevant date of liability to pay tax as provided in sub-section (3) of section 3;
- (e) made in the course of inter-State trade and commerce;
- (f) of the goods which are disposed of otherwise than in sale, resale or manufacture;

- (g) of the goods specified in the Schedule I or the goods exempt from whole of tax by a notification under sub-section (2) of section 5;
- (h) of the goods which are used in manufacture of goods specified in Schedule I or in the packing of goods so manufactured;
- (i) of the goods which are in the nature of capital goods as defined in clause (5) of section 2 and which are meant for use as capital goods in the manufacture;
- (j) of vehicles of any type and its equipment, accessories or spare-parts (except when purchasing dealer is engaged in the business of sales of such goods)
- (k) property or goods not connected with the business of the dealer;
- (l) of the goods which are used as fuel in generation of electrical energy meant for captive use or otherwise;
- (m) of the goods which are used as fuel in motor vehicles;
- (n) of the goods which remain as unsold stock at the time of closure of business;
- (o) where original invoice does not contain the details of tax charged separately by the selling dealer from whom purchasing dealer has purchased the goods;
- (p) where original tax invoice is not available with purchasing dealer or there is evidence that the same has not been issued by the selling dealer from whom the goods are purported to have been purchased;

Notwithstanding anything contained in clause (a) or (b) in this sub-section and subject to conditions as may be prescribed, a registered dealer shall be allowed to claim tax credit in respect of purchase tax paid by him under sub-section (1) or (2) of section 9.

(6) The State Government may, by notification in the *Official Gazette*, specify any goods or the class of dealers that shall not be entitled to whole or partial tax credit.

(7) Where a registered dealer without entering into a transaction of sale, issues to another registered dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the Government revenue or with the intention that the Government may be defrauded of its revenue, the Commissioner may, after making such inquiry as he thinks fit and giving a reasonable opportunity of being heard, deny the benefit of tax credit, in respect of such transaction, to such registered dealers issuing or accepting such tax invoice, retail invoice, bill or cash memorandum either prospectively or retrospectively from such date as the Commissioner may, having regard to the circumstances of the case, fix.

(8) If the goods purchased were intended for the purposes specified under sub-section (3) and are subsequently used fully or partly for purposes

other than those specified under the said sub-section or are used fully or partly in the circumstances described in sub-section (5), the tax credit, if availed of, shall be reduced on account of such use, from the tax credit being claimed for the tax period during which such use has taken place; and such reduction shall be done in the manner as may be prescribed.

(9) The registered dealer may claim the amount of net tax credit, which shall be determined in the manner as may be prescribed.

(10) Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of section 61 or if he returns or rejects goods purchased, as a consequence of which the tax credit availed by him in any period in respect of which the purchase of goods relates, becomes either short or excess, he shall compensate such short or excess by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned, subject to such conditions as may be prescribed.

(11) A registered dealer shall apply fair and reasonable method to determine, for the purpose of this section, the extent to which the goods are sold, used, consumed or supplied, or intended to be sold, used, consumed or supplied. The Commissioner may, after giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, reject the method adopted by the dealer and calculate the amount of tax credit as he deems fit.

(12) Subject to the exceptions as may be prescribed by the rules, any dealer including the Commission agent shall not be permitted to transfer his tax credit to any other dealer or as the case may be, the principal.

Explanation.—For the purpose of this section, the amount of tax credit on any purchase of goods shall not exceed the amount of tax actually paid or payable under this Act in respect of the same goods.

Tax credit for
stock on 31st
March, 2003.

12. (1) Within the period as may be prescribed, all the dealers who are deemed to have been registered under section 23 shall furnish in such form and to such authority as may be prescribed, a statement of taxable goods under this Act held in stock on the 31st March, 2003 for which the dealer intends to claim tax credit under this Act.

Explanation.—For the purpose of this section, "taxable goods held in stock" includes taxable goods in the process of use in the manufacture as on the 31st March, 2003.

(2) A registered dealer who has submitted the statement of taxable goods under sub-section (1) shall not be permitted to make any changes in the details of such statement if such changes result in increase in the tax credit claimed in the statement of taxable goods.

(3) If the goods shown in the statement referred to in sub-section (1) —

(a) were liable to tax under the earlier law, and the purchasing registered dealer had paid the amount of tax to the selling registered dealer under the earlier law or had paid purchase tax under the earlier law, and

- (b) are intended to be used for the purposes specified in sub-section (3) of section 11 –

then the amount of tax so paid by the purchasing dealer on such goods, determined in such manner and subject to the provisions of section 11 as far as they may apply and further subject to such conditions and restrictions and to such extent as may be prescribed, shall be allowed as the tax credit to the dealer referred to in sub-section (1). Such tax credit shall be available as the outstanding credit brought forward for being claimed in such manner as may be prescribed.

- (4) Notwithstanding anything contained in this section, no tax credit under this section shall be allowed in respect of those goods, –

(a) which are not taxable under this Act or the earlier law;

(b) which are not included in the statement of taxable goods referred to in sub-section (1);

(c) for which the dealer does not have in his possession sales vouchers issued by a dealer registered under the earlier law, against the purchases of the said goods or for which purchase tax payable under earlier law has not been paid by the 31st March, 2003;

(d) which are not recorded in the books of accounts of the dealer claiming tax credit under this section; or

(e) which are declared as "prohibited goods" under clause (21) of section 2 of the Gujarat Sales Tax Act, 1969.

Guj. 1 of 1970.

(5) Where the amount of tax on the goods purchased is not indicated separately on the sale vouchers, the tax credit under this section shall be calculated in the manner as may be prescribed.

(6) The provisions of section 11 shall apply *mutatis-mutandis* to the tax credit to be availed of under this section.

(7) If the Commissioner is satisfied that a dealer –

(a) has claimed tax credit for such stock for which he is not entitled for claiming tax credit as per the provisions of section 11 and sub-sections (3) and (4) of section 12, or

(b) has claimed excess tax credit than what he is entitled to under section 11 or under this section

the Commissioner may, after giving the dealer an opportunity of being heard direct him to pay a penalty equal to twice the amount of tax credit so claimed.

13. The net amount of Value Added Tax for a tax period payable shall be determined after the adjustment of tax credit in the manner as may be prescribed.

Net amount
of Value
Added Tax.

Option for payment of lumpsum tax in lieu of tax on sales.

14. (1) (a) Notwithstanding anything contained in this Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit any dealer, who is not engaged in the activity of manufacture and whose total taxable turnover has not exceeded rupees twenty-five lakhs in the previous year, to pay lump sum tax in lieu of the amount of tax payable under section 7 of this Act.

(b) The permission granted under sub-section (1) shall remain valid so long as the total taxable turnover of the registered dealer does not exceed rupees twenty-five lakhs. In case where total taxable turnover of a registered dealer exceeds rupees twenty-five lakhs during the course of the year, he shall be liable to pay tax under the provisions of this Act from the tax period as may be prescribed for this purpose.

Explanation.— For the purpose of permission under clause (a) for the year 2003-04, total taxable turnover shall be calculated with reference to the Gujarat Sales Tax Act, 1969.

Guj. 1 of 1970.

(2) The State Government may, fix the rate of lump sum tax by notification in the *Official Gazette*.

(3) A dealer who is permitted under sub-section (1) to pay lump sum tax shall not,-

- (a) be entitled to claim tax credit in respect of tax paid by him on his purchases,
- (b) charge any tax under this Act in his sales bill or sales invoice in respect of the sales on which lump sum tax is payable; and
- (c) issue tax invoice to any dealer who has purchased the goods from him.

(4) A dealer who is permitted under sub-section (1) to pay lump sum tax shall be liable to pay, in addition to the lump sum tax under this section,—

- (a) purchase tax leviable under sub-sections (1) and (3) of section 9;
- (b) tax at the rate specified under section 7 in respect of sales of goods within the State,-
 - (i) which are purchased or brought from other State in any manner, or
 - (ii) which are purchased in the course of import from outside the territories of India, and

Explanation.— For the removal of doubt, it is clarified that the dealer who has been permitted to opt for composition under this section shall be liable to pay central sales tax as per the provisions of Central Act in respect of sales made by him in the course of inter-State trade and commerce.

Burden of proof.

15. The burden of proof shall lie on a dealer who claims that he is not liable to pay tax under this Act in respect of any sale effected by him or is eligible for a tax credit under section 11 and section 12.

CHAPTER III**COMMERCIAL TAX AUTHORITIES AND TRIBUNAL.**

16. (1) For carrying out the purposes of this Act, the State Government shall appoint an officer to be called the Commissioner of Commercial Tax.

Commercial
tax authori-
ties and
jurisdiction.

(2) To assist the Commissioner in the execution of his functions under this Act, the State Government may appoint Special Commissioners, Additional Commissioners and such number of –

- (a) Joint Commissioners,
- (b) Deputy Commissioners,
- (c) Assistant Commissioners,
- (d) Commercial Tax Officers, and
- (e) other officers and persons, and give them such designations, as the State Government thinks necessary.

(3) The Commissioner shall have jurisdiction over the whole of the State, the Special Commissioner and an Additional Commissioner shall have jurisdiction over the whole of the State or where the State Government so directs, over any local area thereof. All other officers shall have jurisdiction over the whole of the State or over such local areas as the State Government may specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on him by or under this Act. The Special Commissioner and an Additional Commissioner shall, save as otherwise directed by the State Government, have and exercise within his jurisdiction all the powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act.

(5) A Joint Commissioner shall have and exercise, in the area within his jurisdiction all the powers and shall perform all the duties conferred or imposed on the Commissioner by or under this Act. The Commissioner may, by order published in the *Official Gazette*, direct that any or all Joint Commissioners shall not exercise such powers or perform such duties as are specified in the order, and there-upon such Joint Commissioner or, as the case may be, all Joint Commissioners, shall cease to exercise those powers and perform those duties. The Commissioner may in like manner revoke any such direction and thereupon the powers or duties exercisable or performable by such Joint Commissioner, or as the case may be, all Joint Commissioners before such direction was issued, shall be restored to him or them.

(6) The Deputy Commissioners, Assistant Commissioners, Commercial Tax Officers and other officers shall within their jurisdiction exercise such of the powers and perform such of the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as the State Government may by general or special order impose, by order in writing delegate to them either generally or as respects any particular matter or class of matters.

(7) The State Government may, subject to such restrictions and conditions as it may impose by notification in the *Official Gazette*, delegate to the Commissioner the power (not being powers relating to the appointment of Special commissioner, Additional Commissioner or Joint Commissioners), conferred on the State Government by sub-sections (2) and (3).

(8) All officers and persons appointed under sub-section (2) shall be subordinate to the Commissioner; and the subordination of officers (other than the Commissioner), and of persons amongst themselves shall be such as may be prescribed.

Power to
transfer
proceedings.

17. (1) The Commissioner may, after due notice to the concerned parties and by order in writing, transfer any proceedings or class of proceedings under any provision of this Act from himself to any other officer and he may likewise transfer any such proceedings (including a proceeding already transferred under this section) from one such officer to another or to himself.

(2) The officer to whom any proceeding is transferred under sub-section (1) shall proceed to dispose it of as if it had been initiated by himself.

(3) The transfer of proceedings shall not render necessary the re-issue of any notice already issued before such transfer and the officer to whom the proceeding is transferred may continue it from the stage at which it was left by the officer from whom it was transferred.

Explanation.—For the purposes of this section, “proceedings” in relation to any person whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or which may have been completed on or before such date, and includes also such proceedings which may be commenced after the date of such order in respect of any year.

Disputes
regarding
jurisdiction
of tax
authority.

18. (1) No person shall be entitled to call in question the jurisdiction of any tax authority appointed under section 16, after the expiry of thirty days from the date of receipt by that person of any notice issued by such tax authority under this Act.

(2) An objection as to the jurisdiction of any such tax authority may be raised within the periods aforesaid by submitting a memorandum to that tax authority who shall refer the question to the Commissioner and the Commissioner shall after giving the person raising the objection, a reasonable opportunity of being heard, make an order determining the question of jurisdiction and his decision in this behalf shall be final.

Tribunal.

19. (1) The State Government shall constitute a Tribunal consisting of as many as members as it thinks fit to discharge the functions conferred on the Tribunal by or under this Act.

(2) The State Government shall appoint one of the members of the Tribunal to be President thereof.

(3) The qualifications of the members constituting the Tribunal shall be such as may be prescribed and a member shall hold office for such period as the State Government may fix.

(4) The State Government may terminate the appointment of any member of the Tribunal before the expiry of term of his office, if such member, —

(a) is adjudged an insolvent, or

(b) engages during his term of office in any paid employment outside the duties of his office, or

(c) is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the State Government or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member, or

(d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or

(e) is convicted of an offence involving moral turpitude.

(5) Any vacancy of a member of the Tribunal shall be filled up by the State Government as soon as practicable.

(6) The functions of the Tribunal may be discharged by one or more benches thereof constituted in accordance with the regulations made under sub-section (9).

(7) If the members of the Tribunal or a Bench thereof are divided, the decision shall be the decision of the majority, if there be a majority, but if the members are equally divided they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points to one or more of the other members of the Tribunal, and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case including those who first heard it.

(8) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award cost and the amount of such costs shall be recoverable from the person ordered to pay the same as an arrears of land revenue.

(9) Subject to the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which the Tribunal or the Benches thereof shall sit) and the disposal of its business, make regulations consistent with the provisions of this Act and the rules.

(10) The regulations made under sub-section (9) shall be published in the *Official Gazette*.

20. (1) In discharging their functions under this Act, the Tribunal and the Commissioner shall have all the powers of a civil court for the purpose of, —

(a) receiving of proof of facts on affidavit;

Powers of
Tribunal and
Commis-
sioner.

(b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;

(c) compelling the production of documents; and

(d) issuing commissions for the examination of witnesses.

(2) In the case of any affidavit to be made for the purposes of this Act, any officer appointed by the Tribunal or the Commissioner may administer the oath to the deponent.

CHAPTER IV

REGISTRATION

Registration.

21. (1) No dealer shall, while being liable to pay tax under this Act, carry on business as a dealer unless he possesses a valid certificate of registration as provided by this Act:

Provided that the provisions of this sub-section shall not be deemed to have been contravened if the dealer having applied for such registration, as provided in this section, within the prescribed time carries on such business.

(2) A dealer dealing exclusively in goods specified in Schedule I shall not be liable for registration.

(3) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in such form, to such authority and in such manner as may be prescribed.

(4) If the prescribed authority is satisfied that an application for registration is in order, it shall register the applicant and issue him a certificate of registration in the prescribed form.

(5) The prescribed authority may, after considering any information furnished under any provisions of this Act or otherwise received, amend from time to time, any certificate of registration.

(6) When a dealer has been subjected or is liable to be subjected to a penalty or is convicted in respect of contravention of the provisions of sub-section (1), the prescribed authority shall register such dealer, if such dealer is not a registered dealer, and issue him a certificate of registration. Such registration shall take effect from the date of the issue of the certificate in every respect as if it had been issued under sub-section (3) on an application of the dealer.

(7) Where –

(a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued or, transferred, or

(b) total turnover and taxable turnover of a dealer during the preceding year has not exceeded the thresholds of turnover specified in sub-section (1) of section 3,-

and the dealer applies in the prescribed manner for cancellation of his registration, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.

(8) Where the Commissioner is satisfied that any business in respect of which a certificate of registration has been issued under this section, has been discontinued and the dealer has failed to apply as aforesaid for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the business has been discontinued.

(9) The cancellation of a certificate of registration on an application of the dealer or otherwise, shall not affect the liability of the dealer to pay the tax, penalty or interest due for any period prior to the date of cancellation whether such tax, penalty or interest is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

22. (1) A dealer having a fixed or regular place of business in the State and who is not required to be registered under section 21, may apply in the prescribed manner for the certificate of registration to the authority prescribed for the purpose under section 21.

Voluntary
registration.

(2) If the prescribed authority is satisfied that the application made by the dealer under sub-section (1) is in order, it may grant him a certificate of registration in the prescribed form:

Provided that no certificate of registration under this section shall be granted to the dealer unless he deposits an amount of rupees twenty-five thousand in the Government treasury. The dealer may, in his return to be furnished in accordance with section 29, adjust the amount so deposited against his liability to pay tax, penalty or interest payable under this Act.

(3) The provisions of sub-section (4) and clause (a) of sub-section (7) and sub-section (8) of section 21 shall apply in respect of the amendment or cancellation of certificate of registration granted under this section.

(4) Notwithstanding anything contained in this Act, every dealer who has been registered under sub-section (2) shall, so long as his registration remains in force, be liable to pay the tax under this Act.

23. Every dealer registered as on the appointed day under any of the earlier laws or under the Central Act shall be deemed to be registered under section 21.

Deemed
registration.

24. Save as otherwise provided in section 25, a certificate of registration shall be personal to the dealer to whom it is granted and shall not be transferable.

Non-
transferabil-
ity of
registration.

25. Where, -

(a) a registered dealer is a firm and on the death of any partner of such firm, the firm stands dissolved, and

(b) the person who immediately before such dissolution was a partner of the firm carries on business of the dissolved firm, as proprietor, then-

Continuation
of certificate
of registra-
tion of
dissolved
firm.

- (i) until the certificate of registration granted to the firm prior to its dissolution is amended under sub-clause (ii), the certificate of registration granted to the firm prior to its dissolution shall, subject to section 27, continue to be valid for a period of six months;
- (ii) on an application made by such person within a period of six months from the date of dissolution of the firm for amendment of the certificate of registration and on information being furnished in the manner required by section 26, the certificate of registration granted to the firm prior to its dissolution shall be amended accordingly.

Amendment
of certificate
of registra-
tion.

26. (1) Where a registered dealer -

- (a) transfers his business, in whole or in part, or transfers his place of business, by sale, lease, leave or licence, hire or in any other manner whatsoever, or otherwise disposes of his business or any part thereof or effects or comes to know of any other change in the ownership of the business;
- (b) discontinues his business or changes the place of business thereof or opens a new place of business, or temporarily closes the business for a period more than thirty days;
- (c) changes the name, style, constitution or nature of his business; or
- (d) enters into partnership or other association in regard to his business or effects any changes in the ownership of the business,

he shall, within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall inform of such death or where any such dealer is a firm and there is any change in the constitution of the firm or the firm is dissolved, every person who was a partner thereof, shall in like manner, inform the said authority of the change in the constitution or as the case may be, dissolution of the firm.

(2) The Commissioner may, after considering any information furnished under this Act or otherwise received and after making such inquiry as he may deem fit, amend from time to time, any certificate of registration:

Provided that the Commissioner shall, before amending on his own motion a certificate of registration, give the dealer affected by such amendment an opportunity of being heard.

(3) An amendment of the certificate of registration made under sub-section (1) or (2) shall take effect from the date of contingency, which necessitates the amendment, whether or not information in that behalf is furnished within the time prescribed under sub-section (1).

(4) Any amendment of a certificate of registration under this section shall be without prejudice to any liability for tax, interest or penalty or for any prosecution for an offence under this Act.

(5) If a dealer fails, without sufficient cause, to comply with the provisions of sub-section (1), the Commissioner may after giving the dealer a reasonable

opportunity of being heard, direct him to pay, by way of penalty a sum of rupees one hundred per day of default subject to a maximum of rupees five thousand.

(6) For the removal of doubts, it is hereby declared that where a registered dealer-

- (a) effects a change in the name of his business;
- (b) is a firm and there is a change in the constitution of the firm without dissolution thereof;
- (c) is a trustee of a trust and there is a change in the trustees thereof;
- (d) is a Hindu Undivided Family and the business of such family is converted into a partnership business with all or any of the co-parceners as partners thereof; or
- (e) is a firm or a company or a trust or any other set up and change in the management takes place including the change of the director or the Managing Director of the company ;

then merely by reason of the circumstances as aforesaid, it shall not be necessary for the dealer to apply for a fresh certificate of registration and on information being furnished in the manner required by this section, the certificate of registration shall be amended.

27. (1) Where-

- (a) any business, in respect of which a certificate of registration has been issued to a dealer under this Act is discontinued;
- (b) in the case of transfer of whole business by a dealer, the transferee already holds a certificate of registration under this Act;
- (c) an incorporated body has been wound up or it otherwise ceases to exist;
- (d) the owner of a proprietorship business dies leaving no successor to carry on the business;
- (e) in case of a firm or association of persons, it is dissolved; or
- (f) a dealer has ceased to be liable to pay tax under this Act,-

Cancellation
of registra-
tion.

the Commissioner may cancel the certificate of registration of such dealer or the transferor, as the case may be, from such date, as may be specified by him.

(2) A registered dealer, whose certificate of registration is liable to be cancelled under sub-section (1), may apply for cancellation of his registration to the prescribed authority, in the manner and within the time prescribed.

(3) On receipt of such application from the dealer, if the registering authority is satisfied that the dealer fulfils the conditions specified in sub-section (1), he shall cancel the registration of such dealer.

(4) The certificate of registration shall be deemed to be inoperative-

- (a) in case of clause (a) or (b) of sub-section (1), with effect from the date of discontinuance or, as the case may be, transfer of the business;
- (b) in case of clause (c), (d), (e), or (f) of sub-section (1), from the date on which the dealer's liability to pay tax has ceased,

notwithstanding the fact that the order of cancellation is passed or not or that the particulars of the dealer regarding cancellation are published as required under sub-section (11), or not.

(5) If a dealer -

- (a) has failed to file three consecutive returns within the time prescribed under this Act;
- (b) knowingly furnishes incomplete or incorrect particulars in his returns;
- (c) has failed to pay tax due from him under the provisions of this Act;
- (d) having issued tax invoice or retail invoices, has failed to account for the said invoices in his books of account;
- (e) holds or accepts or furnishes or causes to be furnished a declaration, which he knows or has reason to believe to be false;
- (f) who has been required to furnish security under section 28, but has failed to furnish such security;
- (g) has been convicted of an offence under this Act, or under the earlier law;
- (h) discontinues his business and has failed to furnish information regarding such discontinuation, or
- (i) without entering into a transaction of sale issues to another dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the Government revenue,

the Commissioner may at any time, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, cancel his certificate of registration from such date as may be specified by him.

(6) Every person whose registration is cancelled under sub-section (5) shall pay in respect of every taxable goods held as stock on the date of cancellation an amount equal to the tax that would be payable in respect of the goods if the goods were sold at fair market price on that date or the total tax credit previously claimed in respect of such goods, whichever is higher.

(7) If an order of cancellation passed under this section is set aside as a result of an appeal or other proceedings under this Act, the certificate of registration of the dealer shall be restored and he shall be deemed to be treated as if his registration was not cancelled.

(8) Every dealer who applies for cancellation of registration shall surrender with his application the certificate of registration granted to him and every dealer whose registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days from the date of communication to him of the order of cancellation:

Provided that if a dealer is unable to surrender the certificate of registration on account of loss, destruction or defacement of such certificate, such dealer shall intimate the registering authority accordingly within seven days from the date of communication of order of cancellation of registration.

(9) If a dealer –

(a) fails without sufficient cause to comply with the provisions of sub-section (2); or

(b) fails to surrender his certificate of registration as provided in sub-section (8),

the Commissioner may, by an order in writing and after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum equal to rupees one hundred for every day of default.

(10) Cancellation of a certificate of registration shall not affect the liability of any dealer to pay tax, penalty or interest due for any period till the date of such cancellation and which has remained unpaid or is assessed thereafter.

(11) The Commissioner shall publish in the manner as may be prescribed the particulars of dealers whose certificate of registration has been cancelled under the provisions of this Act.

28. (1) Where it appears necessary to the authority to which an application is made under section 21 or 22 for issue of certificate of registration, so to do for the proper realization of the tax, penalty and interest payable under this Act, it may by an order in writing and for the reasons to be recorded therein, impose as a condition for the issue of certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order, such security as may be specified in the order for the aforesaid purpose.

Security from
certain class
of dealers.

(2) Where it appears necessary to the authority referred to in section 21, or the Commissioner so to do for the proper realization of the tax, interest and penalty payable or which has become due for payment, for any period of any year, he may, at any time, by an order in writing and for reason to be recorded therein, require a registered dealer to furnish in the prescribed manner and within such time as may be specified in the order, such security or if such dealer has already furnished any security, such additional security as may be specified in the order.

(3) No dealer shall be required to furnish any security under sub-section (1) or any security or additional security under sub-section (2) unless he has been given an opportunity of being heard.

(4) The amount of security, which a dealer may be required to furnish under sub-section (1) or sub-section (2), or the aggregate of the amount of such

security, and the amount of additional security which he may be required to furnish under sub-section (2) by the authority referred to therein or the Commissioner, shall not exceed the amount of tax, interest and penalty payable or which has become due for payment for a period of any year according to the estimate of the authority referred to in sub-section (1) or the Commissioner, on the turnover of sales or turnover of purchase of goods of such dealer for any period of any year.

(5) Where the security furnished by a dealer under sub-section (1) or sub-section (2) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority referred to in sub-section (1) or sub-section (2) or, as the case may be, the Commissioner and shall within ninety days of such occurrence, furnish a fresh security for the same amount as that of the bond in the form of a bond or in any other prescribed manner.

(6) The authority referred to in sub-section (1) or sub-section (2) or, as the case may be, the Commissioner may, by order and for good and sufficient cause, forfeit the whole or any part of the security furnished by a dealer for realizing any amount of the tax, interest or penalty payable by the dealer:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(7) Where by reason of an order under sub-section (6), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(8) The authority referred to in sub-section (1) or sub-section (2) or, as the case may be, the Commissioner may, on an application made by a dealer in that behalf, make an order of refund of any amount or part thereof deposited by the dealer by way of security or for the release of bond under this section, if it is not required for the purpose of realization of tax, interest or penalty.

(9) Where a dealer fails to furnish security as required under sub-section (1), (2), (5) or (7), the authority referred to in section 21 shall refuse to issue or, as the case may be, shall cancel the certificate of registration:

Provided that the refusal or cancellation of a certificate of registration under this sub-section shall, notwithstanding anything contained in sub-section (3) of section 3, not affect the liability of the dealer to pay the tax, penalty and interest due for any period before or after the date of such refusal or cancellation of the certificate of registration; and accordingly the provisions of this Act shall continue to apply.

CHAPTER V.

RETURNS, PAYMENT OF TAX, ASSESSMENT, RECOVERY OF TAX AND REFUND.

Returns.

29 (1) Every Registered dealer shall furnish correct and complete returns in such form, for such period, by such dates and to such authority, as may be prescribed.

(2) The Commissioner may, subject to such terms and conditions as may be prescribed, exempt any dealer from furnishing returns or permit any dealer, -

(a) to furnish for such different periods, or

(b) to furnish separate returns relating to various places of business of a dealer in the State for the said period, or for such different period, to such authority, as he may direct.

(3) If the Commissioner has reason to believe that the total turnover of any dealer is likely to exceed the thresholds of turnover specified in sub-section (1) of section 3, he may, by notice served in the prescribed manner, require such dealer to furnish returns as if he were a registered dealer, but no tax shall be payable by such dealer, unless he become liable to pay tax under sub-section (1) of section 3.

(4) If any dealer having furnished returns under sub-section (1) or (3) discovers any mistake, error, omission or incorrect statement therein, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return.

(5) If a registered dealer or any other dealer required to furnish return under this section fails to furnish any return by the prescribed date as required under sub-section (1) or fails to comply with the requirement of notice issued under sub-section (3), the Commissioner shall direct him to pay, in addition to any tax and interest payable or paid by him, by way of penalty a sum of rupees one hundred per month or part thereof for the default period. The penalties specified under this sub-section shall be imposed by the Commissioner notwithstanding the fact that the assessment proceedings have not been initiated against the dealer under section 32, 33 or 34. Any penalty imposed under this sub-section shall be without prejudice to any prosecution for any offence under this Act.

30. (1) Tax shall be paid in the manner hereinafter provided, and at such intervals as may be prescribed.

Periodical
payment of
tax and
interest on
non-payment
of tax.

(2) Every registered dealer furnishing return as required by sub-section (1) of section 29 shall pay into a Government treasury, in the manner prescribed, the whole amount due from him according to such return and shall furnish along with the return a receipt showing full payment of such amount.

(3) If the revised return furnished by a registered dealer in accordance with sub-section (4) of section 29, shows a higher amount of tax due than shown in the return earlier furnished by him, he shall pay into a Government treasury the remaining amount of tax arising from the revised return alongwith interest on delayed payment of such remaining amount, and furnish alongwith the revised return a receipt showing such payment.

(4) If a registered dealer does not pay the amount of tax payable in accordance with the provisions of sub-section (1), (2) or (3), the Commissioner shall forthwith initiate recovery proceedings under this Act.

(5) Where a dealer does not pay the amount of tax within the time prescribed for its payment under this section, then there shall be paid by such

dealer for the period commencing on the date of expiry of the aforesaid prescribed time and ending on date of payment of the amount of tax, simple interest at the rate of eighteen per cent, per annum, on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

Collection of
tax only by
registered
dealers.

31. (1) A person who is not a registered dealer shall not collect in respect of any sale of goods any amount by way of tax under this Act and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the rules made thereunder.

(2) A registered dealer who has been permitted by the Commissioner to make a lump sum payment under section 14 shall not collect from his purchaser any sum by way of tax on the sales of goods during the period the permission for lump sum tax is valid.

(3) The tax collected and deposited under the provisions of this Act to which a dealer may be held not liable shall not be refunded to the dealer and the amount of such tax shall stand forfeited to the Government.

(4) If any person collects any amount by way of tax in contravention of the provisions of this Act, he shall be liable to pay, in addition to any tax payable, a penalty equal to the amount so collected.

Return
scrutiny and
provisional
assessment.

32. (1) Returns or revised returns furnished by the dealer in accordance with section 29 shall be subject to scrutiny by the Commissioner.

(2) (a) If any dealer has furnished return or revised return according to which,-

(i) net amount of tax payable, in accordance with section 13, is nil,
or

(ii) the amount of tax credit is carried forward for subsequent
return, or

(iii) the amount of refund is claimed there in, or

(iv) the dealer has claimed in his return or the revised return higher
amount of tax credit than the admissible amount of tax credit, -

then, the Commissioner may, as soon as possible, provisionally assess such dealer for the period of such return or as the case may be, revised return. For the purpose of aforesaid provisional assessment, the Commissioner shall serve on such dealer in the prescribed manner a notice requiring him to explain in writing, on or before the date specified in the aforesaid notice the basis on which the dealer has furnished such returns or the revised returns. The Commissioner may, after considering such explanation provisionally assess the amount of tax due from such dealer and issue an order in the prescribed form.

(b) If the dealer who has been served the notice under clause (a) fails to comply with requirement of clause (a), the Commissioner shall determine the amount of tax payable in the manner as may be prescribed and serve on such dealer an order of the provisional assessment.

(3) Where a registered dealer has not furnished the return in respect of any tax period within the prescribed time, the Commissioner shall, notwith-

standing anything contained in section 34, proceed to assess the dealer provisionally for the period for such default. Such provisional assessment shall be made on the basis of past returns or past records or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such manner and by such date as may be prescribed.

(4) Where the Commissioner has reason to believe that the dealer has evaded the tax or has claimed more amount of tax credit than the admissible amount of tax credit, he may, after taking into account all relevant materials gathered by him and after giving the dealer a notice in the prescribed form, provisionally assess to the best of his judgment the amount of tax payable by the dealer.

(5) The provisions of this Act shall *mutatis mutandis* apply to the provisional assessment as if provisional assessment were an audit assessment made under this Act

(6) Nothing contained in this section shall prevent the Commissioner from making assessment under sections 33 and 34.

33. (1) Every registered dealer shall, by such dates and to such authority as may be prescribed, furnish annual return by way of self-assessment in the prescribed form, containing such particulars and accompanied by supporting documents, as may be prescribed.

Self-
assessment.

(2) The amount of tax credit, exemptions and other claims by the dealer in the annual return for which no supporting tax invoice, declarations, certificates, or evidence required under this Act or the Central Act is furnished, shall be self-assessed by the dealer by disallowing such tax credits, exemptions and other claims and by levying the appropriate rate of tax as if the sales or purchases were taxable.

(3) If a dealer has furnished all the returns, revised returns, if any, and annual return within the prescribed period and the Commissioner is satisfied that the returns or as the case may be, revised returns, and annual return are correct and complete, he may accept the annual return by way of self-assessment filed by the dealer and shall assess the amount of tax and interest due from the dealer on the basis of such returns. The Commissioner shall send to such dealer an intimation in the prescribed form regarding the assessment done under this section.

34. (1) Subject to the provisions of sub-section (2), the amount of tax due from a registered dealer shall be assessed in the manner hereinafter provided, separately for each year, during which he is liable to pay tax.

Audit
assessment.

(2) Where,

(a) the Commissioner is not satisfied with the bonafides of any claim of tax credit, exemption, refund, deduction, concession, rebate; or genuineness of any declaration or evidence furnished by a dealer in support thereof with the self-assessment, or

(b) the Commissioner has reason to believe that detailed scrutiny of the case is necessary,

the Commissioner may, notwithstanding the fact that the dealer may have been assessed under section 33, serve on such dealer in the prescribed manner a notice requiring him to appear on a date and place specified therein, which may be his place of business or a place specified in the notice, either to attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns or to produce such evidence as specified in the notice.

(3) The dealer shall provide all co-operation and reasonable assistance to the Commissioner as may be required in case the proceedings under this section are required to be conducted at his place of business.

(4) If proceedings under this section are to be conducted at the place of business of the dealer and it is found that the dealer is not functioning from such premises or no such premises exists, the Commissioner shall assess to the best of his judgment the amount of tax due from him.

(5) If the Commissioner is unlawfully prevented from conducting the proceedings under this section, he may assess to the best of his judgment the amount of tax due from the dealer and may further direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the tax amount.

(6) If any dealer –

(a) has not furnished returns in respect of any period by the prescribed date;

(b) has furnished incomplete or incorrect returns for any period;

(c) has failed to comply with the terms of notice issued under sub-section (2);

(d) has failed to maintain books of accounts in accordance with the provisions of this Act or rules made thereunder or has not regularly employed any method of accounting, –

the Commissioner shall assess to the best of his judgment the amount of tax due from him.

(7) If the Commissioner is satisfied that the dealer, in order to evade or avoid payment of tax, –

(a) has failed to furnish, without reasonable cause, returns in respect of any period or the self-assessment by the prescribed date;

(b) has furnished incomplete or incorrect returns for any period;

(c) has availed tax credit for which he is not eligible;

(d) has employed such method of accounting which does not enable the Commissioner to assess the tax due from him, or

(e) has knowingly furnished false or incorrect self assessment, –

he shall, after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum equal to twice the amount of tax assessed on account of the said reason in the audit assessment.

(8) If the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act in respect of any period, has failed to get himself registered, the Commissioner shall proceed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods. In making such assessment, he shall give the dealer an opportunity of being heard. The Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees five thousand, whichever is more.

(9) No assessment under sub-sections (2), (5), (6) or (7) shall be made after the expiry of four years from the end of the year in respect of which or part of which the tax is assessable.

(10) No assessment under sub-section (8) shall be made after the expiry of eight years from the end of the year in respect of which or part of which the tax is assessable:

Provided that where any assessment is required to be made in pursuance of an order of any court or authority, such fresh assessment shall be made at any time within two years from the date of such order:

Provided further that in computing the period of limitation for the purpose this section, any period during which assessment proceedings are stayed by an order or injunction of any court or authority shall be excluded.

(11) Any assessment made or penalty imposed under this section shall be without prejudice to prosecution for any offence under this Act.

(12) Where in the case of a dealer, the amount of tax assessed for any period under this section or reassessed for any period under section 35 exceeds the amount of tax already paid under sub-section (1), (2) or (3) of section 30 by the dealer in respect of such period by more than twenty five per cent of the amount of tax so paid, there shall be levied on such dealer a penalty not exceeding one and one-half times the difference between the tax paid under section 30 and the amount so assessed or reassessed.

35. (1) Where after a dealer has been assessed under section 32, 33 or 34 for any year or part thereof, the Commissioner has reason to believe that the whole or any part of the taxable turnover of the dealer in respect of any period has,—

Turnover
escaping
assessment.

(a) escaped assessment; or

(b) been under-assessed; or

(c) been assessed at a rate lower than the rate at which it is assessable;
or

(d) wrongly been allowed any deduction therefrom; or

(e) wrongly been allowed any tax credit therein,

the Commissioner may serve a notice on the dealer and after giving the dealer an opportunity of being heard and making such inquiry as he considers necessary, proceed to determine to the best of his judgment, the amount of tax due from the dealer in respect of such turnover which comes to his notice subsequently, and the provisions of this Act shall, so far as may be, apply accordingly.

(2) No order shall be made under sub-section (1) after the expiry of five years from the end of the year in respect of which or part of which the tax is assessable;

Refund of
excess
payment.

36. (1) Subject to other provisions of this Act and the rules, the Commissioner may refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him:

Provided that, the Commissioner shall first apply such excess towards the recovery of any amount due under this Act or the earlier laws and shall then refund only the balance amount, if any:

Provided further that no such adjustment under the proviso shall be made towards a recovery of an amount due that has been stayed by an appellate authority.

(2) Where any refund is due to any dealer, according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 29 for any subsequent period in the year:

Provided that the amount of tax, or penalty, interest or surety forfeited or all or any of them due from and payable by the dealer on the date of such adjustment, shall first be deducted from such refund before making the adjustment.

Provisional
refund.

37. (1) If a registered dealer has filed any return as required by or under this Act, and such return shows any amount to be refundable to the dealer, then the dealer may apply in such form and in such manner as may be prescribed, to the Commissioner for grant of provisional refund pending assessment.

(2) Subject to the provisions of sub-section (3), the Commissioner may require the aforesaid dealer to furnish a Bank Guarantee or other security as may be prescribed, for an amount equal to the amount of refund. On receipt of such guarantee or other security, the Commissioner may, subject to rules, grant provisional refund to the dealer.

(3) The Commissioner may direct that assessment under section 32 of such dealer in respect of the period covered by the said return be taken up as early as practicable and adjust the grant of provisional refund against tax due, if any, as a result of the assessment.

(4) If, on assessment, the provisional refund granted under sub-section (2) is found to be in excess; then such excess shall be recovered as if it is a tax due from the dealer under this Act and the interest on such tax shall be charged

at the rate of eighteen percent per annum, for the period from the date of grant of provisional refund, till the date of assessment

38. (1) Where refund of any amount of tax becomes due to the dealer by virtue of an order of assessment under section 34, he shall subject to the provision of this section be entitled to receive in addition to the amount of tax, simple interest at the rate of six per cent per annum on the said amount of tax from the date immediately following the date of the closure of the accounting year to which the said amount of tax relates to the date of order of assessment:

Interest on
refund.

Provided that where the dealer has paid any amount of tax after the closure of the accounting year and such amount is required to be refunded, no interest shall be payable for the period from the date of closure of such accounting year to the date of payment of such amount.

(2) A registered dealer entitled to refund in pursuance of any order other than referred to under sub-section (1) or in pursuance of any order by any court, shall subject to rules, be entitled to receive, in addition to the refund, simple interest at the rate of six per cent for the period commencing after thirty days from the date of such order till the date of payment of amount of such refund. The interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Act or under the Central Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, such interest shall be enhanced or reduced accordingly:

Provided that where the amount becomes refundable by virtue of an order of the appellate authority or revision authority or of a court, the interest under the provisions of this section shall be payable from the date immediately following the expiry of the period of thirty days from the date of receipt of the order of the appellate authority or revision authority or the court, by the officer whose order forms the subject matter of the proceedings before the appellate authority or revisional authority or the court to the date of refund.

Explanation 1.— For the purposes of this section, where the refund of tax, whether full or in part, includes refund of any amount of tax paid after the date prescribed for making the last payment of any period covered by the return, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

Explanation 2.— If the delay in granting the refund within the period of thirty days aforesaid is attributable to the said dealer, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which the interest is payable.

Explanation 3.— Where the refund of a sum deposited as a pre-condition for entertainment of appeal under sub-section (4) of section 73 becomes due on account of appeal being decided in dealer's favour, the 'date of order' for the purposes of this section shall be—

(a) in the case where the case has been remanded by the appellate authority, the date of the order made in pursuance of the order of the appellate authority; and

(b) in any other case, the date of the order of the appellate authority.

(3) Where the realization of any amount remains stayed by the order of any court or authority and such order is subsequently vacated, interest shall be payable also for any period during which such order remained in operation.

Power to withhold refund in certain cases.

39. (1) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue, he may, after giving the dealer an opportunity of being heard, withhold the refund till such time as he may determine.

(2) Where a refund is withheld under sub-section (1), the dealer shall be entitled to interest as provided under section 38, if as a result of the appeal or further proceeding he becomes entitled to refund.

Refund of tax for certain categories.

40. (1) Subject to such terms and conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *official gazette*, authorize the Commissioner to grant refund of the amount of tax separately charged by any registered dealer to any class of persons who have purchased the goods from such dealer.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make, during the session in which it is so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

(3) Any person, so entitled for refund under sub-section (1) may apply to the prescribed authority in the manner and within the time as may be prescribed. The Commissioner shall subject to provisions of this Act grant such refund to such person.

Remission of tax, penalty or interest.

41. (1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest in case of double taxation or to redress an inequitable situation, remit by an order either generally or specially, the whole or any part of the tax, penalty or interest payable in respect of any period by any dealer or a class of dealers or of any specified class of sales or purchase.

(2) The Commissioner may, in such circumstances and subject to such conditions and within such limit as may be prescribed remit the whole or any part of the tax, penalty or interest payable, in respect of any period, by any dealer.

Payment and recovery of tax and interest on delayed payment.

42. (1) The amount of tax assessed, reassessed or becoming payable for any period under section 32, 33, 34, 35, 75 or 79, less any amount already paid by the dealer in respect of such period, shall together with penalty and interest if any that may become payable under any of the provisions of this Act, be paid by the dealer or the person liable therefor into a Government treasury or in such other manner as may be prescribed within thirty days from the date of service of notice of demand issued by the Commissioner for this purpose.

(2) On an application by the dealer, the Commissioner may in respect of any particular dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by installments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) In a case where payment by installments is allowed under sub-section (2) and the dealer or the person liable for such payment commits default in paying any one of the installments within the time fixed by the Commissioner under that sub-section, the dealer or the person shall be deemed to be in default in respect of the whole of the amount then outstanding and the other installments shall be deemed to have been due on the same date as the installment in default.

(4) Interest at the rate of eighteen per cent per annum shall be charged for the period as may be extended or the installments as may be granted under sub-section (2).

(5) If the amount of tax and penalty, if any, is not paid within the time specified in sub-section (1) or extended under sub-section (2), as the case may be, the dealer or the person liable therefor shall be deemed to be in default in respect of that amount.

(6) Where the amount of tax assessed or reassessed for any period, under section 34 or section 35, subject to revision, if any, under section 75, exceeds the amount of tax already paid by a dealer for that period, there shall be paid by such dealer, for the period commencing from the date of expiry of the time prescribed for payment of tax under sub-section (1); (2) or (3) of section 30 and ending on date of order of assessment, reassessment or, as the case may be, revision, simple interest at the rate of eighteen per cent per annum on the amount of tax not so paid or any less amount thereof remaining unpaid during such period.

(7) Where a dealer does not pay the amount of tax falling under sub-section (1) on or before the prescribed date, then there shall be paid by such dealer for the period commencing on the specified date and ending on the date of payment, simple interest at the rate of eighteen per cent per annum on the amount of tax not so paid or any less amount thereof remaining unpaid during such period :

Provided that where security, other than in the form of surety bond, has been furnished by a dealer under sub-sections (1) and (2) of section 28, the Commissioner may, for good and sufficient reasons to be recorded in writing, realise any amount of tax, penalty or interest remaining unpaid as aforesaid or part thereof by ordering forfeiture of the whole or any part of the security.

43. Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act (hereinafter in this section referred to as "Government dues") is served upon any dealer and any appeal, revision application is filed or other proceeding is initiated in respect of such Government dues, then -

Continuation
of certain
recovery
proceedings.

(a) where such Government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the dealer another notice of demand only in respect of the amount by which such Government dues are enhanced and any recovery proceeding in relation to such Government dues as

are covered by the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal, revision or in other proceeding—

(i) it shall not be necessary for the Commissioner to serve upon the dealer a fresh notice of demand;

(ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceeding is pending;

(iii) any recovery proceedings initiated on the basis of the notice of demand served upon him prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

Special mode
of recovery.

44. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last known address, require,—

(a) any person from whom any amount of monies is due, or may become due, to a dealer on whom notice has been served under sub-section (1), or

(b) any person who holds or may subsequently hold monies for or on account of such dealer,

to pay to the Commissioner, either forthwith upon the monies becoming due or being held or within the time specified in the notice (but not before the monies becomes due or is held as aforesaid) so much of the monies as is sufficient to pay the amount due by the dealer in respect of the arrears of tax, penalty or interest under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this sub-section, the amount of monies due to a dealer from, or monies held for or on account of a dealer by any person, shall be calculated by the Commissioner after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due for payment by such dealer to such person.

(2) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner

to the extent of the liability discharged or to the extent of the liability of the dealer for tax, penalty and interest, whichever is less.

(5) Where a person to whom a notice under this section is sent objects to it by a statement in writing that the sum demanded or any part thereof is not due or payable to the dealer or that he does not hold any monies for or on account of the dealer, the Commissioner shall hold an inquiry and after giving to such person or dealer a reasonable opportunity of being heard, make such order as he thinks fit.

(6) Any amount of monies which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrears of land revenue.

(7) The Commissioner may apply to the court in whose custody there is monies belonging to the dealer for payment of the amount of such monies towards the outstanding amount of tax, interest and penalty payable by the dealer.

45. (1) Where during the pendency of any proceedings of assessment or reassessment of turnover escaping assessment, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the dealer in such manner as may be prescribed.

Provisinal
attachment.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

46. (1) For the purpose of effecting recovery of the amount of tax, penalty or interest due from any dealer or other person by or under the provisions of this Act or under any earlier law, as arrears of land revenue –

Special
powers of tax
authorities
for recovery
of tax as
arrears of
land revenue

(i) the Commissioner, the Special Commissioner, Additional Commissioner and the Joint Commissioners shall have and exercise all the powers and perform all the duties of the Collector under the Bombay Land Revenue Code, 1879.

(ii) the Deputy Commissioners and Assistant Commissioners shall have and exercise all the powers (except the powers of arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Assistant Collector or Deputy Collector under the said Code.

(iii) the Commercial Tax Officers shall have and exercise all the powers (except the powers of arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Mamlatdar under the said Code.

(2) Every order passed in exercise of the powers conferred by sub-section (1) shall, for the purpose of section 73, 75, 78, 79 or 94, be deemed to be an order passed under this Act.

Transfer to
defraud
revenue void.

47. Where a dealer after any tax has become due from him creates a charge on or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his property in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the dealer.

Tax to be first
charge on
property.

48. Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a dealer or any other person on account of tax, interest or penalty for which he is liable to pay to the Government shall be a first charge on the property of such dealer, or as the case may be, such person.

CHAPTER VI

LIABILITY TO PAY TAX IN CERTAIN CASES.

Applicability
of the Act or
earlier law to
other persons
liable to pay
tax.

49. Where in respect of any tax, interest or penalty due from a dealer under this Act or under any earlier law, any other person is liable for the payment thereof under any provisions of this Act or earlier law, all the relevant provisions of this Act or, as the case may be, of the earlier law shall, in respect of such liability apply to such person also, as if he were the dealer himself.

Liability of
commission
agent and
principal.

50. (1) Where a commission agent purchases or sells any taxable goods on behalf of his principal, such commission agent and his principal shall be jointly and severally liable to pay the tax payable under the Act.

(2) If the commission agent shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable by him under this Act in respect of any goods, has been paid by the principal on whose behalf the goods were purchased, the commission agent shall not be liable to pay the tax again in respect of the same transaction.

(3) If the principal, on whose behalf commission agent has sold the goods, shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable under this Act in respect of any goods, has been paid by his commission agent, the principal shall not be liable to pay the tax again in respect of the same transaction.

Liability in
case of
transfer of
business.

51. (1) Where a dealer, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax, interest or any penalty due from the dealer up to the time of such transfer, whether such tax, interest or penalty has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

(2) Where the transferee or the lessee of a business referred to in subsection (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is an existing dealer, apply within the prescribed time for amendment of his certificate of registration.

52. (1) When two or more companies are amalgamated by the order of court or of the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have sold or purchased any goods to or from each other during the period commencing on the date from which the order is to take effect and ending on the date of the order, then such transactions of sale and purchase shall be included in the turnover of sale or purchase of the respective companies and shall be assessed to tax accordingly.

Amalgamation
of companies.

(2) Notwithstanding anything contained in the said order, for all the purposes of this Act, the said two or more companies shall be treated as distinct companies for all the periods upto the date of the said order and the registration certificates of the said companies shall be cancelled, where necessary, with effect from the date of the said order.

Explanation.— Words and expressions used in this section but not defined shall have the respective meanings assigned to them in the Companies Act, 1956.

1 of 1956.

53. (1) Every person—

(a) who is a liquidator of any company which is being wound up whether under the orders of a court or otherwise; or

(b) who has been appointed as receiver of any assets of a company (hereinafter referred to as the “liquidator”),

Liability in
case of
company in
liquidation.

shall, within thirty days after his appointment, give intimation of his appointment as such to the Commissioner.

(2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any private company is wound up and any tax, interest or penalty assessed under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery is attributable to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation.—For the purposes of this section, the expressions “company” and “private company” shall have the meaning respectively assigned to them under clauses (i) and (ii) of sub-section (1) of section 3 of the Companies Act, 1956.

1 of 1956.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment:

Liability of
partners of
firm to pay
tax.

Provided that where any partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice in that behalf in writing and he shall be liable to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement whether assessed or not assessed, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of
guardians
trustees etc.

55. Where the business in respect of which tax is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, as if he were major and capacitated person and if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

Liability of
courts of
Wards etc.

56. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Act is under the control of the Court of Wards, the Administrator General, the *Official Trustee* or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, *Official Trustee*, receiver or manager as the case may be, in like manner and to the same extent as it would be assessed upon and be recoverable from the dealer as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

Special
provision
regarding
liability to
pay tax in
certain cases.

57. (1) Where a person who is or has been a dealer, liable to pay tax under this Act, dies, then-

(a) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such dealer under this Act or under any earlier law, and

(b) if the business carried on by the dealer is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from such dealer under this Act or under any earlier law,-

whether such tax interest or penalty has been assessed before his death but has remained unpaid or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu Undivided Family and the property of the Hindu Undivided Family is partitioned amongst the various members or groups of members then each member or group of members shall jointly and severally be liable to pay the tax, interest or penalty due from the dealer under this Act or under any earlier law upto the time of the

partition whether such tax, penalty or interest has been assessed before partition but has remained unpaid or is assessed after the partition.

(3) Where a dealer, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 54 the tax, interest or penalty due from the firm under this Act or under any earlier law, upto the time of dissolution whether such tax, interest or penalty has been assessed before the dissolution, but has remained unpaid or is assessed after dissolution.

(4) Where the dealer liable to pay tax under this Act, -

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary,

then if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax, interest or penalty due from the dealer upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been assessed before the termination of guardianship or trust but has remained unpaid or is assessed thereafter.

(5) Where a person becomes liable to pay tax in the manner described in clause (a) of sub-section (1), then such person shall, (notwithstanding anything contained in section 3), be liable to pay tax on the sales of goods made by him on and after the date of such succession or transfer and shall (unless he already holds a certificate of registration) in the case of succession, within six months and in the case of transfer, within thirty days, thereof apply for registration.

58. (1) Where a dealer is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

Liability in other cases.

(a) the tax payable under this Act, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance, a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance be liable jointly and severally for the payment of tax assessed and penalty or interest imposed and payable by such firm, association or family, whether such tax, interest or penalty or has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a dealer.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after its reconstitution, shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest and penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or where the dealer, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition.

Service of
notice in
certain
circum-
stances.

59. (1) Where a Hindu Undivided Family has been partitioned, notice under this Act shall be served on the person who was the last manager of the Hindu Undivided Family, or if such person cannot be found, then on all adults who were members of the Hindu Undivided Family, immediately before the partition.

(2) Where a firm or an association of persons is dissolved, notice under this Act may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

(3) Where the business of a firm, an association of persons or company has been discontinued, a notice under this Act shall be served in the case of a firm or an association of persons on any person who was a member of such firm or association at the time of its discontinuance and in the case of a company, on the principal officer thereof.

CHAPTER VII

ACCOUNTS AND RECORDS

Invoices.

60. (1) A registered dealer who sells taxable goods to another registered dealer, shall, at the request of the purchaser, provide to him, at the time of sale, with a tax invoice containing such particulars as may be prescribed and retain a copy thereof:

Provided that a tax invoice shall not be issued by a dealer-

(a) in respect of the goods specified in Schedule I or exempt by notification under sub-section (2) of section 5;

(b) who has given an option to pay lumpsum tax in lieu of tax under section 14;

(c) for sale in the course of inter-State trade or commerce or export out of the territory of India: or

(d) to a person who is not a registered dealer.

(2) Except when tax-invoice is issued under sub-section (1), if a registered dealer sells any goods exceeding rupees one hundred in value in any one transaction to any person, he shall issue to the purchaser a retail invoice, containing such particulars as may be prescribed and retain a copy thereof.

Credit and
debit notes.

61. Subject to the provisions of sections 8 and 60, where a tax invoice has been provided as contemplated in sub-section (1) of section 60, and-

- (a) the amount shown as tax charged in the tax invoice exceeds the actual tax charged in respect of the sale concerned, the seller shall provide the purchaser with a credit note within three months of the sales of goods involved in the transaction, containing such particulars as may be prescribed;
- (b) the actual tax charged in respect of the sale concerned exceeds the tax shown in the tax invoice as charged, the seller shall provide the purchaser with a debit note, containing such particulars as may be prescribed;

Provided that —

- (i) not more than one credit note or, as the case may be, debit note shall be issued for the amount in excess;
- (ii) no credit note shall be issued for the amount in excess which arises when the purchaser avails of the discount offered by the seller.

62. (1) Every dealer liable to pay tax under this Act, and every other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 29 shall maintain at his place of business a true account of the value of goods purchased, sold, supplied and delivery of goods made by him in such form and in such manner as may be prescribed.

Accounts.

(2) If the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper scrutiny of the returns referred to in section 29, he may require such dealer by notice in writing to keep such accounts (including records of purchases and sales) in such form and in such manner as may be specified therein.

(3) The Government may, direct any class of registered dealers generally to keep such accounts (including records of purchases and sales) in such manner as may be prescribed.

63. (1) If in respect of any particular year, total turnover of a dealer exceeds rupees one crore, then such dealer shall get his accounts verified and audited by a specified authority within one year from the end of that year and obtain within that period a report of such audit in the prescribed form duly signed and verified by such specified authority alongwith such particulars as may be prescribed. A true copy of such report shall be furnished by such dealer to the Commissioner within such period as may be prescribed.

Accounts to be audited in certain cases.

Explanation.— For the purposes of this section, "specified authority" means,—

38 of 1949.

(i) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 and includes persons who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of companies;

1 of 1956.

23 of 1959.

(ii) a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;

(iii) a legal practitioner or a Sales Tax Practitioner whose name is entered in the list maintained by the Commissioner in accordance with the provisions of section 81.

(2) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a true copy of such report within the prescribed time, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty not exceeding rupees ten thousand, as he may determine.

Preservation
of records.

64. The dealer shall preserve his books of accounts and the records relevant for the purpose of this Act till the period of eight years from the end of the accounting year to which the books of accounts and the records relate.

CHAPTER VIII.

LIABILITY TO PRODUCE ACCOUNTS AND SUPPLY OF INFORMATION.

Dealer to
declare the
name of
manager of
business.

65. Every registered dealer shall within the period prescribed, file a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be the manager or managers of business of such dealer, for the purposes of this Act and in the event of change of manager, the dealer shall revise the declaration within thirty days from the date of such change.

Dealer to
declare.
details of
bank
accounts.

66. Every dealer, who is liable to pay tax shall send a declaration in such form, within such period and to such authority as may be prescribed, stating therein the particulars of the Bank accounts operated by him in connection with his business and shall within the period prescribed, intimate to the authority the changes in the particulars in the declaration.

Production
and inspec-
tion of
accounts and
documents
and search of
premises.

67. (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer or any other person —

(a) to produce before him such books of account, registers or documents;

(b) to furnish such information relating to the stock of goods, purchases, sales, deliveries of goods by the dealers or any other information relating to his business,

as may be deemed necessary, for the purposes of this Act.

(2) All books of accounts, registers and documents relating to the stock of goods, purchases, sales and deliveries of goods by any dealer; and all goods kept in any place of business or warehouse of any dealer, or at any other place for and on behalf of a dealer, shall at all reasonable time be open to inspection by the Commissioner. The Commissioner may take or cause to be taken such copies or extracts of the said books of account, registers or documents and such inventory of the goods found as appear to him necessary for the purposes of this Act.

(3) Where the Commissioner, has reason to believe that—

(a) any person to whom a notice under this Act was issued to produce or cause to be produced, any books of account or other documents has failed to produce or cause to be produced such books of account or other documents as required by such notice; or

(b) any person to whom a notice as aforesaid has been or might be issued, will not, or would not, produce or cause to be produced any books of account or other documents which will be useful for, or relevant to, any proceeding under the earlier law or under this Act; or

(c) books of account, registers or documents of any dealer may be destroyed, mutilated, altered, falsified or any sale or purchase by that dealer have been or may be suppressed, or any goods have not been or may not be accounted for in the books of account, registers or other documents required to be maintained under this Act, with a view to evade or attempt to evade payment of tax due under the earlier law or under this Act,-

the Commissioner or any other person appointed under sub-section (2) of section 16 if so authorised by him, may,-

(i) enter and search any building or place where he has reason to suspect that the books of account and other documents or the goods or the sale proceeds are kept;

(ii) break open the lock of any door, box, locker, safe, or other receptacle for exercising the powers conferred by sub-clause (i) where the keys thereof are not available;

(iii) seize any such books of account or other documents or any inventory of goods or any goods as appear to him necessary for the purposes of this Act;

(iv) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(v) make a note or any inventory of any such money or goods found as a result of such search or place marks of identification on such goods;

(vi) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle if the owner or the person in occupation or in-charge of such office, shop, godown, box, locker, safe, almirah or other receptacle leaves the place or is not available or fails or refuses to open it when called upon to do so, or causes or attempts to cause obstruction to the Commissioner or the authorised officer in the discharge of his duties under this section.

(4) The Commissioner may requisition the services of any police officer or any public servant, or of both to assist him for all or any of the purposes specified in sub-section (3).

(5) Where the Commissioner seizes any books of account or other documents or any goods, he shall give the dealer or the person present on his behalf a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the dealer or person from whose custody the books of account or other documents or the goods are seized refuses to give an acknowledgement, the Commissioner may leave the receipt at the premises and record the fact:

(6) Where it is not feasible to seize the accounts or other documents or the goods under sub-section (3), the Commissioner or the authorised officer, may serve on the owner or the person who is in immediate possession or control thereof, an order that he shall not remove or part with or otherwise deal with them except with the previous permission of the Commissioner or such authorized officer.

(7) The Commissioner shall keep in his custody the books of account, registers or documents seized under sub-section (3) for such period not later than the completion of all the proceedings under this Act in respect of the years for which those books of account, registers or documents are relevant, as he considers necessary, and thereafter shall return the same to the dealer or any other person from whose custody or power they were seized:

Provided that the Commissioner may, before returning such books of account or other documents as aforesaid, place or cause to be placed such marks of identification thereon as appear to him to be necessary:

Provided further that the Commissioner may, before returning the books of account and other documents, require that the dealer or the person, as the case may be, shall give written undertaking that the books of account and other documents shall be presented whenever required by any competent authority for any proceedings under this Act.

(8) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code. 2 of 1974.

(9) The Commissioner may, for the purposes of this Act,—

(a) require any person, including a banking company, post office or any officer thereof, to furnish information in relation to such matters or to furnish statements of accounts and affairs verified in the manner specified by him, giving information in relation to such points or matters as in his opinion will be useful for, or relevant to, any proceeding under this Act;

(b) require any person—

(i) who transports or holds in custody, for delivery to or on behalf of any dealer any goods to give any information likely to be in his possession in respect of such goods or to permit inspection thereof, as the case may be;

(ii) who maintains or has in his possession any books of account, registers or documents relating to the business of a dealer to produce such books of account, registers or documents for inspection.

(10) If any person, who transports or holds in custody for delivery to or on behalf of any dealer any goods, on being required by the

Commissioner under sub-clause (i) of clause (b) of sub-section (9) so to do, fails to furnish the information likely to be in his possession in respect of such goods or fails to permit inspection thereof the Commissioner may pass an order of detention or seizure of goods in his custody or possession in respect of which the default is committed.

(11) The order of detention or seizure passed under sub-section (10) shall remain in force so long as the person concerned does not furnish information required under sub-clause (i) of clause (b) of sub-section (9) or make proper arrangement for inspection of the goods under the said sub-section.

(12) If any person, who transports or holds in custody for delivery to or on behalf of any dealer any goods, on being required by the Commissioner under sub-clause (i) of clause (b) of sub-section (9) so to do, fails to give any information likely to be in his possession in respect of such goods or fails to permit inspection thereof without prejudice to any other action which may be taken against such person, a presumption may be raised that the goods in respect of which he has failed to furnish information or permit inspection, were meant for sale by him and he is a dealer liable to pay tax under this Act and the provisions of this Act shall apply accordingly.

(13) If any person commits default under clause (a) or sub-clause (ii) of clause (b) of sub-section (9), the Commissioner may, without prejudice to any other action which may be taken against such person under any other provision of this Act, direct, after giving an opportunity of being heard to such person that such person shall pay by way of penalty a sum not exceeding rupees fifty thousand.

(14) If the Commissioner is satisfied that any person on being required by him so to do, has failed to furnish the information in respect of the goods in his custody for delivery to or on behalf of any dealer or to permit inspection thereof under sub-clause (i) of clause (b) of sub-section (9), the Commissioner may, by order in writing and after giving opportunity of being heard to such person, impose by way of penalty a sum not exceeding the amount of tax leviable under this Act on the goods in respect of which the default was committed.

(15) Where an order of detention or seizure of goods is made under the provisions of this section, the Commissioner or the officer authorised in this behalf may release the goods on such person exercising the option of paying by way of penalty such sum as may be directed, not exceeding two and a half times the amount of tax leviable on such goods under this Act.

(16) Where any premises including the office, shop, godown, box, locker, safe or other receptacle have been sealed under sub-section (3), the Commissioner, on an application made by the owner or the person in occupation or in-charge of such shop, godown, box, locker, safe, or other receptacle, may order de-sealing thereof on such terms and conditions, including furnishing of security for such sum in such form and manners as may be prescribed.

(17) Where an order of detention or seizure of goods is made under this section and no claim is lodged by any person with respect to such goods within a period of three months from the date of such order, the Commissioner may, by order in writing, direct the auction of such goods:

Provided that if the goods, in respect of which an order of detention or seizure is made, are of a perishable nature or subject to speedy and natural decay or when the expenses of keeping them in custody are likely to exceed their value, the same may be ordered to be auctioned as soon as it is practicable soon after an order of detention or seizure of such goods is made and the amount so realised by the auction of goods shall be remitted in the Government treasury immediately.

(18) Where an order imposing penalty is passed under sub-section (14) or an option of paying penalty is exercised under sub-section (15) and the person liable fails to pay the penalty within the prescribed period, the goods detained or seized may be sold by public auction and the sale proceeds deposited immediately in Government treasury.

(19) Auction of goods to be made under sub-section (17) or sub-section (18) shall be carried out in the manner as may be prescribed.

(20) Any person entitled to the sale proceeds of goods auctioned under the provisions of this section shall, on application made to the Commissioner and upon sufficient proof, be paid the sale proceeds of the goods auctioned, after deducting therefrom the expenses of the sales and other incidental charges and the amount of tax, interest and penalty leviable under this Act.

Inspection of
goods in
transit, etc.

68. (1) If the State Government considers that with a view to preventing evasion of tax in any place or places in the State, it is necessary to so do; it may, by notification in the *Official Gazette*, direct that such number of check-posts shall be set up or such number of barriers shall be erected at such places as may be specified in the notification,

(2) At every check-post or barrier set up or erected under sub-section (1), the driver or any other person in-charge of any vehicle, boat or animal shall stop the same, and keep it stationary so long as may reasonably be necessary, and allow the officer-in-charge of the check-post or barrier to examine the contents in the vehicle or boat or on the animal and inspect all records relating to the goods carried in the vehicle or boat or on the animal which are in the possession of such driver or other person in-charge who shall, if so required, give his name and address and the names and addresses of the owner of the vehicle, boat or animal as well as of the consignor and consignee of such goods; and where any of the consignors or consignee is a dealer registered under this Act or the Central Sales Tax Act, 1956 or relevant Act in any other State, the driver or any other person in-charge of the vehicle, boat or animal shall also give the number and place of issue of the certificate of registration, if any, of such dealer.

LXXIV of
1956.

(3) The driver or other person in-charge of a vehicle, boat or animal carrying goods shall –

(a) carry with him a log book, a bill of sale or delivery note and such other documents relating to the goods carried in the vehicle or boat or on the animal and containing such particulars as may be prescribed and the driver or person in charge of a transport vehicle shall, in addition, carry a goods vehicle record and a trip sheet;

(b) produce the same when requested to do so by the officer-in-charge of the check-post or barrier;

(c) give to the officer-in-charge of the check-post or barrier a declaration relating to particulars of the goods carried in the vehicle or boat or on the animal in such form as may be prescribed and keep one copy of declaration with him.

(4) If the officer-in-charge of the check-post or barrier is of the opinion that –

(i) goods under transport are not covered by goods vehicle record, trip-sheet or log book, or

(ii) goods under transport are not in accordance with the documents prescribed under clause (a) of sub-section (3), or

(iii) a declaration relating to particulars of goods as made under clause (c) of sub-section (3) is false,

he may, after recording the reasons, seize such goods and vehicle and give receipt thereof to the person from whose possession or control, the goods or vehicles are seized.

(5) (a) The officer-in-charge of the check-posts or barrier may, after giving the owner, driver or person-in-charge of goods, a reasonable opportunity of being heard and after holding such further inquiry, as he deems fit, impose on him penalty, in addition to tax payable under this Act, not exceeding one and one-half times of the tax for possession of goods or vehicles so seized.

(b) The officer-in-charge of the check-post or a barrier may release any of the goods, vehicle or documents so seized under sub-section (4) on payment of tax, interest and penalty or on furnishing such security in such form as may be prescribed.

(6) The officer-in-charge of the check post or barrier may, during inspection and verification of goods under transport including the documents and records relating thereto, direct the carrier not to part with the goods including re-transporting or re-booking until verification of goods, records and documents is done or inquiry, if any, is completed.

Explanation.— In this section, -

(a) "goods vehicle record" means the documents required to be carried by the dealer of a transport vehicle under the Motor Vehicle Act, 1988 or the rules made thereunder;

(b) "log book" means a register, statement or other record containing particulars of the goods under transport;

(c) "trip sheet" means a sheet or other document containing particulars relating to the trip-wise use of a transport vehicle, required to be carried by the driver under the Act referred to in clause (a);

(d) "goods under transport" means goods which have been handed over to a carrier and complete delivery thereof has not been taken from such carrier;

(e) "carrier" means any person or agency who undertakes to carry or transport goods from one place to another.

Transit pass
for transit of
goods by road
through the
State.

69. (1) Where a vehicle, boat or animal carrying goods coming from any place outside the State is bound for any other place outside the State, the driver or any other person in-charge of such vehicle, boat or animal shall obtain in the prescribed manner a transit pass for such vehicle, boat or animal from the officer-in-charge of the first check-post or barrier after his entry into the State and deliver the same to the officer-in-charge of the last check-posts or barrier before his exit from the State.

(2) If the driver or person-in-charge of such vehicle, boat or animal fails to deliver such transit pass, or goods in vehicle, boat or animal are not found in accordance with the transit pass, at the place of exit from State, it shall be presumed that goods carried thereby are sold within the State and he shall be liable to pay tax and penalty not exceeding one and one-half times the amount of tax as may be determined, after giving a reasonable opportunity of being heard, on such sale in accordance with provisions of this Act.

Furnishing of
information
by owners of
cold storage,
warehouses,
godowns, etc.

70. (1) Notwithstanding anything to the contrary contained in any law for the time being in force every owner or lessee of a cold storage, warehouse, godown or any such place, who stores therein taxable goods for hire or reward shall maintain or cause to be maintained a correct and complete account indicating the full particulars of the person whose goods are stored in such places and the quantity, value and date of delivery of such goods.

(2) Such accounts shall, on demand, be produced before the Commissioner or any officer authorised in this behalf who may take or cause to be taken such extracts therefrom or require such extracts to be furnished as he may consider necessary.

(3) If any owner or lessee of a cold storage, warehouse, godown or any other such place, who stores goods for hire or reward, contravenes any of the provisions of sub-section (1) or sub-section (2) in a manner likely to lead to evasion of any tax payable under this Act, the Commissioner may, without prejudice to any other action which may be taken against such owner or lessee under any other provision of this Act direct, after giving an opportunity of being heard, that such owner or lessee shall pay by way of penalty not exceeding the amount of tax leviable on the goods in respect of which default is committed under sub-section (1) or (2).

Power to
collect
statistics.

71. (1) If the Government considers that for the purposes of better administration of this Act, it is necessary so to do, it may by notification in the *Official Gazette*, direct that statistics be collected relating to any matter dealt with, by or under this Act.

(2) Upon such direction being made, the Commissioner may, by notice in any newspaper or in such other manner as he deems fit to bring to the notice of dealers, call upon any class of dealers to furnish such information or statements as may be stated in such notice relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or,

the authorities to which, such information or returns should be furnished and the intervals at which such information or returns should be furnished, shall be such as may be prescribed.

(3) Without prejudice to the generality of the provisions of this Act, the State Government may by rules provide that every registered dealer or any class of registered dealer shall furnish such statements as may be prescribed.

72. (1) If the Commissioner is satisfied that any records pertaining to a dealer have been destroyed as a result of fire or any natural or other calamity or event, he may by notice in writing, require the dealer to appear before him on a date and at such place specified in the notice, or to produce before him any accounts or registers or documents or copies thereof or to furnish fresh returns under this Act or earlier law for such period, by such dates and to such authority as may be specified in the notice (being returns for a period for which the dealer has not yet been assessed), or to furnish true copies of or extracts from any documents already submitted to the Commissioner, on or before the date specified in the notice, or to furnish any other information relating to the business of the dealer as may be specified in the notice, being information which the Commissioner considers necessary for facilitating the work of assessment or reassessment or the collection of the tax from such dealer under this Act or under earlier law.

Special powers for reconstitution of records in certain circumstances.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Commissioner may require the dealer to produce for inspection to or furnish copies of or extracts from all or any of the following, namely:-

- (a) application for the issue of a certificate of registration made under this Act;
- (b) certificate of registration granted to the dealer;
- (c) returns furnished by the dealer;
- (d) proof of payment of tax and penalty by the dealer;
- (e) a certified copy of the assessment order given to the dealer;
- (f) any notice of demand served on the dealer;
- (g) specimen signature furnished by a dealer;
- (h) any nomination made by a dealer.

(3) For securing compliance with any notice given under this section, the Commissioner shall have all the powers specified in section 67.

(4) Where any person is prosecuted for failure to comply with any requirement made of him under this section, the burden of proving that he had reasonable excuse for such failure shall be on him.

CHAPTER IX

APPEAL, REVISION, REFERENCE AND RECTIFICATION.

Appeal.

73. (1) An appeal from every original order, not being an order mentioned in section 74, passed under this Act or the rules, shall lie,-

- (a) if the order is made by a an Assistant Commissioner or Commercial Tax Officer, or any other officer sub-ordinate thereto, to the Deputy Commissioner;
- (b) if the order is made by a Deputy Commissioner, to the Joint Commissioner;
- (c) if the order is made by a Joint Commissioner, Additional Commissioner, or Commissioner, to the Tribunal.

(2) In the case of an order passed in appeal by a Deputy Commissioner or, as the case may be, by a Joint Commissioner, a second appeal shall lie to the Tribunal.

(3) Subject to the provisions of section 84, no appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against.

(4) No appeal against an order of assessment shall ordinarily be entertained by an appellate authority, unless such appeal is accompanied by satisfactory proof of payment of the tax in respect of which an appeal has been preferred:

Provided that an appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order on production of proof of payment of twenty per cent of the amount of tax payable under such order.

(5) The Commissioner, on receipt of notice that an appeal against the order passed in appeal by the Deputy Commissioner or, as the case may be, by the Joint Commissioner has been preferred by the other party to the Tribunal may, within thirty days of receipt of the notice, file a memorandum of cross objection against any part of the order passed in appeal by the Deputy Commissioner or, as the case may be, by the Joint Commissioner and such memorandum shall be disposed of by the Tribunal as if it were an appeal.

(6) Subject to such rules of procedure as may be prescribed, an appellate authority may pass such order on appeal as it deems just and proper.

(7) Every order passed in appeal under this section shall, subject to the provisions of sections 75, 78 and 79, be final.

74. No appeal or no application for revision shall lie against,—

- (a) a notice issued under this Act calling upon a dealer for assessment or asking a dealer to show cause as to why he should not be prosecuted for an offence under this Act; or
- (b) an order of the Commissioner under sub-section (1) of section 17;

Non-
appealable
orders.

- (c) an order pertaining to the seizure or retention of books of account, register and other documents; or
- (d) an order sanctioning prosecution under this Act; or
- (e) an interim order in the course of any proceedings under this Act.

75. (1) Subject to the provisions, of section 74 and to any rules made there under, Revision.

(a) the Commissioner of his own motion within three years or on an application made to him within one year from the date of any order passed by any officer appointed under section 16 to assist him, may call for and examine the record of any such order and pass such order thereon as he thinks just and proper within two years from the date of service of notice for revision;

(b) the Tribunal, on application made to it against an order of the Commissioner (not being an order passed under sub-section (2) of section 73 in second appeal or under clause (a) in revision on an application) within four months from the date of the communication of the order may call for and examine the record of any such order, and pass such order thereon as it thinks just and proper.

(2) Where an appeal lies under section 73 and no appeal has been filed, no proceedings in revision under this section shall be entertained upon application:

Provided that the proceedings in revision may be entertained upon an application where the applicant satisfies the Commissioner that he had sufficient cause for not preferring an appeal against the order in respect of which an application for revision is made.

(3) No order shall be passed under this section which adversely affects any person, unless such person has been given reasonable opportunity of being heard.

(4) Where the Commissioner or the Tribunal rejects any application for revision under this section, the Commissioner or, as the case may be, the Tribunal shall record the reasons for such rejection.

Bom. XXXVI
of 1959.

76. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, an appeal preferred under section 73 and an application for revision made under section 74 shall bear a court-fee stamp of such value as may be prescribed.

Court-fee on
appeal and
application
for revision.

63 of 1963.

77. In computing the period laid down under sections 73, 75 and 78, the provisions of sections 4 and 12 of Limitation Act, 1963 shall, so far as may be, apply.

Applications
of sections 4
and 12 of
Limitation
Act, 1963.

78. (1) Any person or the Commissioner, within ninety days from the date of the communication of the order of the Tribunal, passed in appeal or revision, being an order which affects the liability of any person to pay tax, interest or penalty,

Statement of
case to the
High Court.

or which affects the recovery from such person of any amount under section 44, may, by application in writing (accompanied, where the application is made by that person, by a fee of one hundred rupees) require the Tribunal to refer to the High Court any question of law arising out of such order; and where the Tribunal agrees, the Tribunal shall, as soon as may be, after the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that if in the exercise of its power under this sub-section, the Tribunal refuses to state the case which has been required to do on the ground that no question of law arises, that person, or as the case may be, the Commissioner may, within thirty days of such refusal either withdraw his application or apply to the High Court against such refusal.

(2) If the High Court, upon receipt of an application under sub-section (1), is not satisfied as to the correctness of the decision of the Tribunal, it may require the Tribunal to state the case and refer to it; and accordingly, on receipt of any such requisition, the Tribunal shall state the case and refer it to the High Court.

(3) If The High Court is not satisfied that the statements in the case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such addition thereto or alterations therein, as the High Court may direct in that behalf.

(4) The High Court upon the hearing of any such case, shall decide the question of law raised thereby, and shall deliver its judgement thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgement under the seal of the court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(5) Where a reference is made to the High Court under this section, the costs including the disposal of the fee referred to in sub-section (1), shall be in the discretion of the Court.

(6) The payment of the amount of the tax, if any, due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 36.

Rectification
of mistakes.

79. (1) The Commissioner may at any time within two years from the date of the communication of the order passed by him, to the person affected by such order, on his own motion, rectify any mistake of fact apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order :

Provided that, no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund or tax credit, unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or an appellate authority under section 73 as they apply to the rectification of a mistake by the Commissioner.

(3) Where any such rectification has the effect of reducing the amount of the tax, interest or penalty, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or penalty or reducing the amount of refund, the Commissioner shall recover the amount due from such person in accordance with the provisions of the Act.

80. (1) If any question arises, otherwise than in proceedings before a court, or proceedings under section 33, 34 or 35, whether for the purposes of this Act-

Determina-
tion of
disputed
questions.

(a) any person, society, club or association or any firm or any branch or department of any firm is a dealer, or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods within the meaning of that term, or

(c) any transaction is a sale or purchase, or

(d) any particular dealer is required to be registered, or

(e) any tax is payable in respect of any particular sale or purchase or if tax is payable the rate thereof, or

(f) any tax credit is admissible under section 11 or section 12, the Commissioner shall make an order determining such question.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, with respect to any sale or purchase effected prior to the determination.

(3) If any such question arises from any order already passed under this Act or under the earlier law, no such question shall be entertained for determination under this section; but such question may be raised in appeal against, or by way of revision of such order.

CHAPTER X

PROCEEDINGS

81. (1) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend,—

Appearance
before any
authority in
proceedings.

(a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(b) by a legal practitioner or Chartered Accountant or Cost Accountant who is not disqualified by or under sub-section (2); or

(c) by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner, Chartered Accountant, Cost Accountant or sales tax practitioner-

(a) who has been removed or dismissed from Government service; or

(b) who being a legal practitioner or Chartered Accountant or Cost Accountant is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(c) who being a sales tax practitioner is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unless he has been given a reasonable opportunity of being heard.

(4) Any person against whom an order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the State Government and the State Government may pass such order in appeal as it may think fit.

(5) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(6) The Commissioner may at any time *suo-motu* or on an application made to him in this behalf, revoke any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified.

Power of
Commissioner and
other
authorities to
take evidence
on oath, etc.

82. (1) The Commissioner or any person appointed under sub-section (2) of section 16 to assist him shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely, -

5 of 1908.

(a) enforcing the attendance of any person and examining him on oath or affirmation; and

(b) compelling the production of accounts and documents; and

(c) issuing commissions for the examination of witnesses.

(2) Any proceeding under this Act before the Commissioner or any person appointed under sub-section (2) of section 16 to assist him shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860.

XLV of 1908.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any books of account or other documents produced before it in any proceedings under this Act:

Provided that a person appointed under sub-section (2) of section 16 to assist the Commissioner shall not impound any books of account or other

documents without recording his reasons for doing so and retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Commissioner therefor.

83. Whenever in respect of any proceeding under this Act, the Commissioner or any person appointed under sub-section (2) of section 16 to assist him, ceases to exercise jurisdiction and is succeeded by another person who has and exercises jurisdiction, the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Change of an incumbent of an office.

Provided that the dealer concerned may demand that before the proceeding is so continued, the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he shall be reheard.

84. An appellate authority may admit any appeal or permit the filing of a memorandum of cross objections under section 73 and the Tribunal may admit an application under section 75 or under section 78 after the period of limitation laid down in the said sections, if the appellant or the applicant satisfies the appellate authority or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or filing a memorandum of cross objections or making the application, within such period.

Extension of period of limitation in certain cases.

CHAPTER XI

OFFENCES AND PENALTIES.

85. (1) Whoever,-

Offences and penalties.

(a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or purchases goods;

(b) knowingly furnishes a false return where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs. 1000;

(c) knowingly produces before the Commissioner, false tax invoice, bill, voucher, cash-memorandum, declaration, certificate or other document for claiming deduction or tax credit, the value of which exceeds Rs. 1000

(d) fails to pay tax as per the returns filed by him;

(e) knowingly keeps or produces false account;

(f) issues to any person certificate or declaration under this Act, or a invoice, bill, cash-memorandum, voucher or other document which he knows or has reason to believe to be false;

(g) willfully attempts, in any manner whatsoever, to evade tax leviable under this Act;

shall on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine of rupees twenty thousand.

(2) Whoever-

- (a) carries on business as a dealer without being registered in contravention of section 21; or
- (b) fails without sufficient cause to furnish any information required by section 26; or
- (c) fails to surrender his certificate of registration as provided in sub-section (9) of section 27; or
- (d) fails without sufficient cause to furnish any returns as required by section 29 by the date and in the manner prescribed; or
- (e) without reasonable cause, contravenes any of the provisions of section 31; or
- (f) fails without sufficient cause, when directed so to do under section 62 to keep any accounts or record, in accordance with the directions; or
- (g) fails without sufficient cause, to comply with any requirements made of him under section 67, or obstructs any officer making inspection or search or seizure under that section; or
- (h) obstructs or prevents any officer performing any function under this Act; or
- (i) being owner or in-charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 67 or 68,
- (j) issues to another registered dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the Government revenue or with the intention that the Government may be defrauded of its revenue,

shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine of rupees twenty thousand.

(3) Subject to the provision of section 97, if any Government servant discloses any particulars referred to in sub-section (1) of section 92, he shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine.

(4) Whoever aids or abets any person in commission of any act specified in sub-sections (1) or (2) shall on conviction, be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and with fine of rupees twenty thousand.

(5) Whoever commits any of the acts specified in sub-sections (1) to (3) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with daily fine which shall not be less than rupees five hundred during the period of the continuance of the offence, in addition to the punishments provided under this section.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII FRIDAY, FEBRUARY 25, 2005/PHALGUNA 6, 1926

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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 24th February, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 2 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 25th February, 2005).

AN ACT

to repeal the Gujarat Obsequial Dinners (Control) Act, 1963.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Obsequial Dinners (Control) (Repeal) Act, 2005. **Short title.**
2. The Gujarat Obsequial Dinners (Control) Act, 1963 is hereby repealed. **Repeal.**

Guj.8 of
1964.

Government Central Press, Gandhinagar

IV-EX,-2-1



सत्यमेव जयते

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S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 3 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 25th February, 2005).

AN ACT

to repeal the Bombay Weights and Measures (Enforcement) Act, 1958 in its application to the State of Gujarat.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. This Act may be called the Bombay Weights and Measures Short title. (Enforcement) (Gujarat Repeal) Act, 2005.
2. The Bombay Weights and Measures (Enforcement) Act, 1958 in its Repeal. application to the State of Gujarat is hereby repealed.

Bom. LXIX
of 1958.

IV-Ex 3-1

3-1

Government Central Press, Gandhinagar.



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S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 4 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 25th February, 2005).

AN ACT

further to amend the Gujarat Cinemas (Regulation) Act, 2004.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Cinemas (Regulation) (Amendment) Act, 2005. **Short title.**

Substitution
of section 4 of
Guj. 21 of
2004.

2. In the Gujarat Cinemas (Regulation) Act, 2004, for section 4, the following shall be substituted, namely :-

Guj. 21 of
2004.

Licensing
Authority.

"4. The authority having power to grant licence under this Act shall be the District Magistrate within his jurisdiction :

Provided that the State Government may, by notification in the *Official Gazette*, constitute for the whole or any part of the State such other authority as it may specify in the notification to be the licensing authority for the purposes of this Act."

Government Central Press, Gandhinagar.



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S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 5 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 25th February, 2005).

AN ACT

further to amend the Bombay Labour Welfare Fund Act, 1953.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Labour Welfare Fund (Gujarat Amendment) Act, 2005.

Short title
and
commencement.

(2) It shall be deemed to have come into force on the 31st December, 2004.

**Amendment
of section 2 of
Bom. XL of
1953.**

2. In the Bombay Labour Welfare Fund Act, 1953 (hereinafter referred to as "the principal Act"), in section 2,-

**Bom. XL
of 1953.**

- (1) in clause (2), in sub-clause (b), for the words "seven hundred and fifty rupees", the words "three thousand and five hundred rupees" shall be substituted;
- (2) in clause (10), for the words "three years", the words "one year" shall be substituted.

**Amendment
of section 6A
of Bom. XL
of 1953.**

3. In the principal Act, in section 6A,-

- (1) in sub-section (5),
 - (i) for the words "three years", the words "one year" shall be substituted;
 - (ii) the words "each year" shall be deleted;
- (2) in sub-section (7), for the words "four years", the words "two years" shall be substituted.

**Amendment
of section 6B
of Bom. XL
of 1953.**

4. In the principal Act, in section 6B, for sub-section (2) and provisos thereunder, the following shall be substituted, namely:-

"(2) The amount of employee's contribution shall be payable every six months in respect of every employee whose name stands on the register of the establishment concerned in the month of June, or as the case may be, in the month of December, at the rate of three rupees for each such employee and the amount of employer's contribution shall be payable at every six months at the rate of six rupees for each such employee:

Provided that the State Government may, by notification in the *Official Gazette*, increase the said rate of employee's contribution to such amount not exceeding six rupees if it considers necessary so to do to enable the Board to fulfill the objects of this Act:

Provided further that where the rate of employee's contribution is so increased by the State Government, the rate of employer's contribution shall be twice the rate of employee's contribution as so increased."

**Repeal and
savings.**

5. (1) The Bombay Labour Welfare Fund (Gujarat Amendment) Ordinance, 2004 is hereby repealed.

**Guj. Ord.
3 of 2004.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.



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S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARATACT NO. 6 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 25th February, 2005).

AN ACT

to repeal the Bombay Non-Trading Corporation Act, 1959

It is hereby enacted in the Fifty-Sixth Year of the Republic of India as follows :-

1. This Act may be called the Bombay Non-Trading Corporations (Gujarat Repeal) Act, 2005.

Short title.

Bom.XXVI of
1959.

2. (1) The Bombay Non-Trading Corporations Act, 1959 in its application to the State of Gujarat is hereby repealed.

Repeal and
saving.

Bom.1 of
1904.

Bom.XXVI of
1959.

2. Notwithstanding such repeal, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal of the Bombay Non-Trading Corporations Act, 1959 as if the Act had been an enactment within the meaning of the said section 7.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 7 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 25th February, 2005).

AN ACT

further to amend the Bombay Prohibition Act, 1949.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Prohibition (Gujarat Amendment) Act, 2005.

short title,
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 66 of
Bom. XXV of
1949.

2. In the Bombay Prohibition Act, 1949 (hereinafter referred to as "the principal Act"), in section 66, in sub-section (1),—

Bom. XXV of
1949.

- (i) the proviso to paragraph (i) shall be deleted;
- (ii) the proviso to paragraph (ii) shall be deleted;
- (iii) the proviso to paragraph (iii) shall be deleted;

Amendment of
section 85 of
Bom. XXV of
1949.

3. In the principal Act, in section 85, in sub-section (1),—

- (a) in paragraph (i),—
 - (i) the proviso to sub-paragraph (a) shall be deleted;
 - (ii) the proviso to sub-paragraph (b) shall be deleted;
- (b) in paragraph (ii),—
 - (i) the proviso to sub-paragraph (a) shall be deleted;
 - (ii) the proviso to sub-paragraph (b) shall be deleted;

Amendment of
section 92 of
Bom. XXV of
1949.

4. In the principal Act, in section 92, in sub-section (1), for the words "it shall", the words "it may" shall be substituted.

Government Central Press, Gandhinagar.

Extra No. 8

REGISTERED No. G/GNR/2



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLVI]

FRIDAY, FEBRUARY 25, 2005/PHALGUNA 6, 1926

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 24th February, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 8 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 21st February, 2005).

AN ACT

to repeal the Dhrangadhra Municipality (Imposition of Taxes) (Validation) Act, 1977.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. This Act may be called the Dhrangadhra Municipality (Imposition of Taxes) Short title (Validation) (Repeal) Act, 2005.
2. The Dhrangadhra Municipality (Imposition of Taxes) (Validation) Act, 1977 is hereby repealed.

Guj. 6 of
1978.

IV-Ex-8-1

8-1

Government Central Press, Gandhinagar.

Extra No. 9

REGISTERED No. G/GNR/2



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] WEDNESDAY, MARCH 2, 2005/PHALGUNA 11, 1926

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 28th February, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 9 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 2nd March, 2005).

AN ACT

to repeal the Bombay Rationing (Preparatory and Continuance) Measures Act, 1947 in its application to the State of Gujarat.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. This Act may be called the Bombay Rationing (Preparatory and Continuance) Measures (Gujarat Repeal) Act, 2005.

Short title.

IV-Ex-9-1

9-1

Repeal and
savings.

2. (1) The Bombay Rationing (Preparatory and Continuance) Measures Act, 1947 in its application to the State of Gujarat is hereby repealed.

Bom. LVIII of
1947.

Bom. I of 1904.

Bom. LVIII
of 1947.

(2) Notwithstanding such repeal, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal of the Bombay Rationing (Preparatory and Continuance) Measures Act, 1947 in its application to the State of Gujarat as if the Act had been an enactment within the meaning of the said section 7.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLVII]

SATURDAY MARCH 5, 2005/PHALGUNA 14, 1926

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART IV

Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 4th March, 2005 is hereby published for general information.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 10 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 5th March, 2005).

AN ACT

to authorise payment and appropriation of certain further sums from and out of the Consolidated fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2005.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2005.
2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of nine thousand seven hundred forty-seven crores, forty-five lakhs, fifty-nine thousand rupees towards defraying the several

Short title.

Issue of Rs.
97,47,45,59,000
from and out
of the consoli-
dated fund of
the state of
Gujarat for
the financial
year 2004-2005.

charges which will come in course of payment during the financial year ending on the thirteenth day of March, 2005, in respect of the services and purposes specified in column 2 of Schedule.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the state of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Schedule
(See Section 2 and 3)

No. of Vote / Appropriation	Services and Purposes		Voted	Sums not exceeding Charged on the Consolidated Fund	Total
1	2		3		
			Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	7,59,000	-	7,59,000
2	Agriculture	Revenue	43,01,73,000	1,03,000	43,02,76,000
		Capital	54,50,000	-	54,50,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	12,50,00,000	-	12,50,00,000
4	Animal Husbandry and Dairy Development	Revenue	4,80,93,000	-	4,80,93,000
		Capital	34,20,000	-	34,20,000
5	Co-operation	Revenue	1,62,62,000	-	1,62,62,000
6	Other expenditure pertaining to Agriculture and Co-operation Department	Revenue	-	47,000	47,000
7	Education Department	Revenue	3,12,000	-	3,12,000
8	Education	Revenue	3,88,58,54,000	72,23,000	3,89,30,77,000
10	Energy and Petro-Chemicals Department	Revenue	5,58,000	-	5,58,000
11	Tax Collection Charges (Energy and Petro-Chemicals Department)	Revenue	-	15,000	15,000
12	Energy Projects	Revenue	4,90,28,75,000	-	4,90,28,75,000
		Capital	1,72,86,75,000	-	1,72,86,75,000
14	Finance Department	Revenue	1,000	-	1,000
15	Tax Collection Charges (Finance Department)	Revenue	69,53,000	-	69,53,000
16	Treasury and Accounts Administration	Revenue	-	12,000	12,000
17	Pension and other Retirement Benefits	Revenue	53,85,25,000	-	53,85,25,000
18	Other expenditure pertaining to Finance Department	Revenue	1,08,20,82,000	-	1,08,20,82,000

1	2	3	Rs.		
			Rs.	Rs.	Rs.
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue	-	1,54,50,86,000	1,54,50,86,000
		Capital	-	51,51,91,77,000	51,51,91,77,000
21	Civil Supplies	Revenue	64,36,05,000	-	64,36,05,000
22	Food	Revenue	34,43,000	-	34,43,000
25	Forests	Revenue	1,65,00,000	4,91,000	1,69,91,000
		Capital	53,20,000	-	53,20,000
32	General Administration Department	Revenue	2,000	-	2,000
33	Economic Advice & Statistics	Revenue	7,99,000	-	7,99,000
34	Other expenditure pertaining to General Administration Department	Revenue	93,39,000	6,000	93,45,000
38	Medical and Public Health	Revenue	34,87,08,000	50,000	34,87,58,000
40	Other expenditure pertaining to Health and Family Welfare Department	Revenue	-	17,000	17,000
41	Home Department	Revenue	16,65,000	-	16,65,000
42	Police	Revenue	16,60,64,000	-	16,60,64,000
43	Jails	Revenue	25,75,000	-	25,75,000
44	Transport	Revenue	1,43,22,25,000	-	1,43,22,25,000
		Capital	50,00,00,000	-	50,00,00,000
46	Other expenditure pertaining to Home Department	Capital	41,74,18,000	-	41,74,18,000
49	Industries	Revenue	2,000	-	2,000
		Capital	1,21,73,00,000	-	1,21,73,00,000
50	Mines and Minerals	Revenue	3,00,00,000	-	3,00,00,000
52	Other expenditure pertaining to Industries and Mines Department	Revenue	-	13,14,000	13,14,000
53	Information and Broadcasting Department	Revenue	3,35,000	-	3,35,000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue	7,05,000	-	7,05,000
57	Labour and Employment	Revenue	4,88,49,000	-	4,88,49,000
59	Legal Department	Revenue	24,91,000	-	24,91,000
60	Administration of Justice	Revenue	1,30,76,000	-	1,30,76,000
61	Other expenditure pertaining to Legal Department	Revenue	3,75,000	-	3,75,000
		Capital	4,18,64,000	-	4,18,64,000

1	2	3		
		Rs.	Rs.	Rs.
62	Legislative and Parliamentary Affairs Department	Revenue	1,000	- 1,000
65	Narmada Development Scheme	Capital	12,05,40,08,000	1,000 12,05,40,09,000
66	Irrigation and Soil Conservation	Revenue	22,64,12,000	21,16,000 22,85,28,000
		Capital	-	32,95,000 32,95,000
67	Water Supply	Capital	15,39,000	- 15,39,000
68	Other expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	-	33,91,000 33,91,000
70	Community Development	Revenue	54,33,21,000	- 54,33,21,000
71	Rural Housing and Rural Development	Revenue	1,000	11,38,78,000 11,38,79,000
72	Compensation and Assignments	Revenue	8,51,36,000	- 8,51,36,000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	18,75,67,000	- 18,75,67,000
		Capital	2,94,38,000	- 2,94,38,000
74	Fisheries	Revenue	10,60,31,000	- 10,60,31,000
		Capital	7,99,70,000	- 7,99,70,000
76	Revenue Department	Revenue	1,000	- 1,000
77	Tax Collection Charges (Revenue Department)	Revenue	3,66,92,000	- 3,66,92,000
78	District Administration	Revenue	27,05,61,000	- 27,05,61,000
80	Dangs District	Revenue	1,12,75,000	- 1,12,75,000
81	Compensation and Assignments	Revenue	40,00,00,000	9,000 40,00,09,000
82	Other expenditure pertaining to Revenue Department	Revenue	1,55,24,000	- 1,55,24,000
		Capital	1,45,20,000	- 1,45,20,000
84	Non-Residential Buildings	Revenue	11,15,20,000	5,96,000 11,21,16,000
		Capital	3,49,57,000	- 3,49,57,000
85	Residential Buildings	Revenue	2,54,65,000	16,000 2,54,81,000
		Capital	-	71,000 71,000
86	Roads and Bridges	Revenue	62,35,02,000	7,23,000 62,42,25,000
		Capital	3,48,04,58,000	66,27,000 3,48,70,85,000
87	Gujarat Capital Construction Scheme	Capital	1,000	- 1,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	94,70,000	1,10,39,000 2,05,09,000

1	2	3		
		Rs.	Rs.	Rs.
90	Other expenditure pertaining to Science and Technology Department	Revenue	16,00,00,000	- 16,00,00,000
92	Social Security and Welfare	Revenue	1,43,07,35,000	16,00,000 1,43,23,35,000
93	Welfare of Scheduled Tribes	Revenue	14,61,72,000	- 14,61,72,000
95	Special Component Plan for Scheduled Castes	Revenue	26,51,70,000	- 26,51,70,000
96	Tribal Area Sub-Plan	Revenue	1,31,22,78,000	68,07,000 1,31,90,85,000
		Capital	33,57,29,000	34,59,000 33,91,88,000
98	Youth Services and Cultural Activities	Revenue	6,00,13,000	- 6,00,13,000
99	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	1,33,43,000	- 1,33,43,000
100	Urban Development and Urban Housing Department	Revenue	2,70,000	- 2,70,000
102	Urban Development	Revenue	3,85,94,51,000	- 3,85,94,51,000
103	Compensation, Assignments and Tax Collection Charges	Revenue	32,53,67,000	7,30,00,000 39,83,67,000
105	Women and Child Development Department	Revenue	8,00,000	- 8,00,000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	5,90,83,000	- 5,90,83,000
Total:		Revenue	24,22,55,00,000	1,76,75,39,000 25,99,30,39,000
		Capital	19,94,88,90,000	51,53,26,30,000 71,48,15,20,000
Grand Total:-			44,17,43,90,000	53,30,01,69,000 97,47,45,59,000



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] MONDAY, MARCH 21, 2005/ PHALGUNA 30, 1926

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 21st March, 2005 is hereby published for general information.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 11 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 21st March, 2005).

AN ACT

to provide for the responsibility of the State Government to ensure prudence in fiscal management and fiscal stability by progressive elimination of revenue deficit, sustainable debt management consistent with fiscal stability, greater transparency in fiscal operations of the Government and conduct of fiscal policy in a medium term fiscal framework and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Fiscal Responsibility Act, 2005. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,--

- (a) "budget" means the annual financial statement to be laid before the State Legislature under Clause (1) of article 202 of the Constitution of India;
- (b) "current year" means the year preceding the year for which budget is being presented;
- (c) "fiscal deficit" means the excess of total disbursements from the Consolidated Fund of the State (excluding repayment of debt) over total receipt into the Fund (excluding the debt receipts), during a financial year;
- (d) "fiscal indicators" means the measures such as numerical ceilings and proportions to gross State domestic product, as may be prescribed, for evaluation of the fiscal position of the State Government;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "previous year" means the year preceding the current year;
- (g) "revenue deficit" means difference between revenue expenditure and revenue receipts which indicates increase in liability of the State Government without corresponding increase in assets of the Government;
- (h) "State Government" means the State Government of Gujarat;
- (i) "total liabilities" means the liabilities under the Consolidated Fund of the State of Gujarat and the public account of the State;
- (j) "triggers" means intra-year benchmark on deficit.

Fiscal Policy Statements.

3. (1) The State Government shall lay, in every financial year, before State Legislature, the Medium Term Fiscal Policy Statement and the Fiscal Policy Strategy Statement alongwith the budget.

(2) The Medium Term Fiscal Policy Statement and the Fiscal Policy Strategy Statement shall set forth the fiscal objectives, strategic priorities of the State Government and a three years rolling target for fiscal management laid down in section 5 with enunciation of underlying assumptions.

(3) In particular, and without prejudice to the provisions contained in sub-section (2), the medium term fiscal policy statement shall include assessment of sustainability relating to,-

- (a) the balance between revenue receipt and the revenue expenditure;
- (b) the use of capital receipts including open market borrowings for generating productive assets; and
- (c) the estimated yearly pension liabilities worked out on actuarial basis, for the next ten years, within such period as the State Government may, by order, specify.

(4) The Fiscal Policy Strategy Statement shall, *inter-alia*, contain -

- (i) The policies of the State Government for the ensuing financial year relating to taxation, expenditure, borrowings (including the borrowings by Public Sector Undertakings and special purpose vehicles and other equivalent instruments where liability for repayment is on the State Government, with ceiling fixed for each agency) and other liabilities, lending and investments, pricing of administered goods and services and description of other activities such as guarantees and the activities of the public sector undertakings which have potential budgetary implications and the key fiscal measures and targets pertaining to each of these;
- (ii) the strategic priorities of the State Government in the fiscal areas for the ensuing financial year;
- (iii) key fiscal measures and their rationale for any major deviation in fiscal measures pertaining to taxation, subsidy, expenditure, administered pricing and borrowings;
- (iv) evaluation as to how the current policies of the State Government are in conformity with the fiscal management principles as set out in section 4 and the objectives set out in Medium Term Fiscal Policy Statement;
- (v) evaluation of the performance of the fiscal indicators presented in the previous year vis-à-vis the targets set out earlier and the likely performance in the current year.

(5) The Medium Term Fiscal Policy Statement and the Fiscal Policy Strategy Statement referred to in sub-section (1) shall be in such form as may be prescribed.

4. (1) The State Government shall take appropriate measures to reduce the revenue deficit and contain the fiscal deficit and thereby build up an adequate revenue surplus by following the principles laid down in sub-section (3).

**Fiscal
management
principles.**

(2) The revenue surplus as aforesaid may be utilised for discharging liabilities of the State.

(3) The State Government, shall be guided by the following fiscal management principles, namely:-

- (i) transparency in setting the fiscal policy objectives, the implementation of public policy and in the publication of public accounts;
- (ii) stability in fiscal policy making process;
- (iii) responsibility in the management of public finances;
- (iv) fairness in policy decisions of the State Government having due regard to the financial implications on future generation;
- (v) efficiency in design and implementation of the fiscal policy and managing the public sector;

- (vi) to maintain Government debt at prudent level;
- (vii) to manage guarantees and other contingent liabilities prudently, with particular reference to the quality and level of such liabilities;
- (viii) to maintain the integrity of the tax system by minimizing special incentives, concessions and exemptions;
- (ix) to pursue non-tax revenue policies with due regard to cost recovery and equity;
- (x) to pursue expenditure policies that would provide impetus to economic growth, poverty reduction and promotion of welfare of the people;
- (xi) to ensure that State Government uses resources in such a way that give best value for money and also ensure that public assets are put to the best possible use;
- (xii) to minimize fiscal risks associated with running of public sector undertakings and utilizes it for providing public goods and services;
- (xiii) to formulate budget to realistic and objective manner with due regard to the general economic outlook and revenue prospects and to minimize deviations during the course of the year.

**Fiscal
management
targets.**

5. In particular, and without prejudice to the generality of the foregoing provisions, the State Government shall-
- (a) reduce the revenue deficit to zero within a period of three years commencing from the 1st April, 2005 and ending on the 31st March 2008 and maintain at that level or generate revenue surplus thereafter;
 - (b) reduce the revenue deficit in each of the financial year commencing from the 1st of April, 2005 in a manner so as to achieve the desired goal set out in clause (a).
 - (c) reduce fiscal deficit to not more than three per cent. of the estimated Gross State Domestic Product within a period of four years commencing from the 1st April, 2005 and ending on the 31st March, 2009;
 - (d) reduce the fiscal deficit in each of the financial year commencing from the 1st of April, 2005 in a manner so as to achieve the desired goal set out in clause (c).
 - (e) cap within a period of three years commencing from the 1st April, 2005 and ending on the 31st March, 2008, the total public debt of the State Government at thirty per cent. of the estimated Gross State Domestic Product for that year;

- (f) cap outstanding guarantees within the limit provided in the Gujarat State Guarantees Act, 1963:

Guj. XXII
of 1963.

Provided that the revenue deficit and the fiscal deficit may exceed the limits specified under this section on account of unforeseen circumstances or natural calamity:

Provided further that the excess expenditure on the grounds mentioned in the first proviso shall not exceed the actual fiscal cost spent to meet with the situation.

6. (1) The State Government shall take suitable measures to ensure greater transparency in its fiscal operations in the public interest and minimize, as far as practicable, secrecy in the preparation of the budget and the demands for grants:

Measures for
fiscal
transparency.

Provided that the State Government shall have the power to reserve any such information, which would adversely affect the interest of the State *Ex-chequer*.

- (2) In particular, and without prejudice to the generality of the foregoing provisions, the State Government shall, at the time of presentation of the budget, disclose in a statement in the form as may be prescribed,-

- (i) the significant changes in the accounting standards, policies and practices affecting or likely to affect the computation of fiscal indicators;
- (ii) the contingent liabilities created by way of guarantees, actual liabilities arising out of borrowings by Public Sector Undertakings and Special Purpose Vehicles and other equivalent instruments where liabilities for repayment is on the State Government having regard to the potential budgetary implications, off-budget borrowings, if any, and the committed liability in respect of major works and supply contracts;
- (iii) revenue demands raised but not realized; and
- (iv) the estimated yearly pension liabilities worked out on actual basis, for the next ten year, within such period as the State Government may, by order, specify.

7. (1) The budget presented and the policies announced at the time of the budget shall be consistent with the objectives of the Medium Term Fiscal Policy Statement and the Fiscal Policy Strategy Statement and the Fiscal Management Targets.

Measures to
enforce
compliance.

- (2) Triggers as well as corrective actions that shall be initiated upon activation of triggers shall also be the integral part of the budget.

(3) The Finance Minister of the State shall review the trends in receipts and expenditure in relation to the budget and mentioned the remedial measures required to be taken to achieve the budget targets. The report of such review shall be placed before the State Legislature during the session immediately following the end of the second quarter of the financial year.

(4) The review report, referred in sub-section (3) shall explain,

- (i) any deviation or likely deviation in meeting the obligations cast on the State Government under this Act;
- (ii) whether such deviation is substantial and relates to the actual or the potential budgetary outcomes, and how much of the deviation can be attributed to general economic environment and to policy changes by the Government;
- (iii) the remedial measures, the State Government proposes to take;
- (iv) whenever there is a prospect of either shortfall in revenue or excess of expenditure over the budgetary provisions for a given year on account of any new policy decision of the State Government that affects either the Government or public sector undertakings, the Government, prior to taking such policy decisions, shall take measures to fully offset the fiscal impact for the current and future years by curtailing the sums authorised to be paid and applied from and out of the Consolidated Fund of the State under any Act to provide for the appropriations of such sums or by taking interim measures for revenue augmentation, or by taking up a combination of both;

Provided that nothing in this sub-section shall apply to the expenditure charged on the Consolidated Fund of the State under clause (3) of article 202 of the Constitution of India.

- (v) In case the revenue deficit and fiscal deficit exceed on account of unforeseen demands on the finances of the Government, the Government shall identify the net fiscal cost of the calamity and such cost would provide ceiling for extent of non-compliance to the specified limits.
- (vi) Whenever, one or more supplementary estimates are presented in the State Legislature, the State Government shall also present an accompanying statement indicating the corresponding curtailment of expenditure and augmentation of revenue to fully offset the fiscal impact of the supplementary estimates in relation to the budget targets of the current year and the objectives of the Medium Term Fiscal Policy Statement, Fiscal Policy Strategy Statement and the Fiscal Management Targets for the future year.

8. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

Power to make rules.

- (a) the measures of evaluation of Fiscal position of the State Government;
- (b) the form of Medium Term Fiscal Policy Statement and Fiscal Policy Strategic Statement under sub-section (5) of section 3;
- (c) the form in which disclosures shall be made under sub-section (2) of section 6; and
- (d) any other matter which is required to be, or may be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

9. No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of action taken in good faith.

10. The provisions of this Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.

Application of other laws not barred.

11. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI]

MONDAY, MARCH 21, 2005/PHALGUNA 30, 1926

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 21st March, 2005 is hereby published for general information.

S.S.PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 12 OF 2005.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*", on the 21st March, 2005).

AN ACT

further to amend the Bombay Industrial Relations Act, 1946.

It is hereby enacted in the Fifty-Sixth Year of the Republic of India as follows:-

1. This Act may be called the Bombay Industrial Relations (Gujarat Amendment) Act, 2005. Short title.

Amendment
of section 2 of
Bom. XI of
1947.

2. In the Bombay Industrial Relations Act, 1946, in section 2, after sub-section (5), the following shall be added, namely:-

Bom. XI of
1947.

“(6) The State Government may, by notification in the *Official Gazette*, direct that the provisions of this Act shall cease to apply to such industry, in such area, and from such date, as may be specified in the said notification, and thereupon the provisions of section 7 of the Bombay General Clauses Act, 1904, shall apply to such cessor as if this Act had then been repealed in relation to the said industry in such area by the Gujarat Act.”

Bom. 1 of
1904.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] MONDAY, MARCH 21, 2005/PHALGUNA 30, 1926

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of Gujarat Legislature and Ordinance Promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 21st March, 2005 is hereby published for general information.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department

GUJARAT ACT NO. 13 OF 2005

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 21st March, 2005).

AN ACT
to repeal certain Acts.

WHEREAS it is expedient to repeal certain obsolete Acts;

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Repealing Act, 2005.
2. The Acts specified in the Schedule are hereby repealed.

Short title.

Repeal of certain Acts.

SCHEDULE*(See section 2)*

Year 1	No. 2	Short title of the Act 3
1863	Bom. V	The Gas Companies Act, 1863.
1939	Bom. IX	The Bombay Gas Supply Act, 1939.

સરકારી મધ્યસ્થ મુદ્રણાલય, ગાંધીનગર.



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and regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 21st March, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 14 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 21st March, 2005).

AN ACT

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2006.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2005.
2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of thirty-six thousand, four hundred sixty-four crores, ninety-nine lakhs, twenty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2005-06 in respect of the services and purposes specified in column 2 of the Schedule.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short title.

Withdrawal of
Rs.
3,64,64,99,25,000
from and out of
the Consolidated
Fund of
the State of
Gujarat for the
financial year
2005-2006.

Appropriation.

SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	10,79,39,000	-	10,79,39,000
2	Agriculture	Revenue	4,20,59,54,000	-	4,20,59,54,000
		Capital	6,80,50,000	-	6,80,50,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	50,79,45,000	-	50,79,45,000
		Capital	10,000	-	10,000
4	Animal Husbandry and Dairy Development	Revenue	89,33,62,000	-	89,33,62,000
5	Co-operation	Revenue	41,59,06,000	-	41,59,06,000
		Capital	14,94,69,000	-	14,94,69,000
6	Other Expenditure pertaining to Agriculture and Co-operation Department	Capital	3,30,65,000	-	3,30,65,000
7	Education Department	Revenue	3,06,50,000	-	3,06,50,000
8	Education	Revenue	39,68,16,99,000	1,22,59,20,000	40,90,76,19,000
		Capital	1,48,19,30,000	-	1,48,19,30,000
9	Other Expenditure pertaining to Education Department	Revenue	1,10,20,000	-	1,10,20,000
		Capital	44,55,55,000	-	44,55,55,000
10	Energy and Petro-Chemicals Department	Revenue	2,02,48,000	-	2,02,48,000
11	Tax Collection Charges (Energy and Petro-Chemicals Department)	Revenue	5,78,40,000	-	5,78,40,000
12	Energy Projects	Revenue	21,14,67,71,000	1,25,00,000	21,15,92,71,000
		Capital	1,23,49,29,000	-	1,23,49,29,000
13	Other Expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	15,00,000	-	15,00,000
		Capital	5,01,00,000	-	5,01,00,000
14	Finance Department	Revenue	6,08,05,000	-	6,08,05,000
		Capital	9,00,000	-	9,00,000
15	Tax Collection Charges (Finance Department)	Revenue	1,08,73,37,000	-	1,08,73,37,000
16	Treasury and Accounts Administration	Revenue	40,21,80,000	-	40,21,80,000
17	Pensions and Other Retirement Benefits	Revenue	14,60,32,55,000	10,00,000	14,60,42,55,000
18	Other Expenditure pertaining to Finance Department	Revenue	15,83,61,36,000	-	15,83,61,36,000
		Capital	8,01,81,90,000	1,00,000	8,01,82,90,000

1	2	3		
19	Repayment of debt pertaining to Finance Department and its Servicing	Revenue	-	58,08,43,80,000
		Capital	-	58,08,43,80,000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue	7,33,70,000	48,52,59,02,000
				48,52,59,02,000
21	Civil Supplies	Revenue	1,52,49,05,000	-
22	Food	Revenue	12,74,05,000	-
		Capital	1,25,00,000	-
23	Other Expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	32,00,000	-
24	Forest and Environment Department	Revenue	3,71,85,000	-
25	Forest	Revenue	1,17,63,34,000	-
		Capital	87,47,50,000	-
26	Environment	Revenue	4,54,00,000	-
27	Other Expenditure pertaining to Forest and Environment Department	Capital	73,25,000	-
28	Governor	Revenue	-	2,48,53,000
29	Council of Ministers	Revenue	1,50,51,000	-
30	Elections	Revenue	17,94,80,000	-
31	Public Service Commission	Revenue	86,95,000	2,66,70,000
32	General Administration Department	Revenue	24,53,62,000	-
33	Economic Advice and Statistics	Revenue	11,01,62,000	-
34	Other Expenditure pertaining to General Administration Department	Revenue	2,07,53,76,000	6,70,000
		Capital	12,47,18,85,000	-
35	State Legislature	Revenue	8,83,50,000	12,74,000
36	Loans and Advances to Government servants in Gujarat Legislature Secretariat	Capital	46,07,000	-
37	Health and Family Welfare Department	Revenue	10,36,69,000	-
38	Medical and Public Health	Revenue	7,97,02,98,000	-
39	Family Welfare	Revenue	1,26,27,57,000	-
40	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	14,25,000	-
		Capital	3,55,10,000	-
41	Home Department	Revenue	18,57,40,000	-
42	Police	Revenue	8,03,88,85,000	-
43	Jails	Revenue	26,06,86,000	-
44	Transport	Revenue	3,89,13,25,000	-
		Capital	2,01,69,00,000	-
45	State Excise	Revenue	4,96,60,000	-

1	2		3		
46	Other expenditure pertaining to Home Department	Revenue	45,35,59,000	3,00,000	45,38,59,000
		Capital	2,23,07,30,000	-	2,23,07,30,000
47	Industries and Mines Department	Revenue	5,77,83,000	-	5,77,83,000
48	Stationery and Printing	Revenue	36,12,37,000	-	36,12,37,000
49	Industries	Revenue	2,45,65,83,000	-	2,45,65,83,000
		Capital	1,10,34,50,000	-	1,10,34,50,000
50	Mines and Minerals	Revenue	22,55,73,000	-	22,55,73,000
51	Tourism	Revenue	33,17,54,000	-	33,17,54,000
		Capital	2,10,00,000	-	2,10,00,000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue	7,82,00,000	-	7,82,00,000
		Capital	1,60,10,000	-	1,60,10,000
53	Information and Broadcasting Department	Revenue	52,95,000	-	52,95,000
54	Information and Publicity	Revenue	23,62,60,000	-	23,62,60,000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	2,94,65,000	-	2,94,65,000
		Capital	83,00,000	-	83,00,000
56	Labour and Employment Department	Revenue	3,27,34,000	-	3,27,34,000
57	Labour and Employment	Revenue	1,12,95,74,000	-	1,12,95,74,000
58	Other Expenditure pertaining to Labour and Employment Department	Capital	61,20,000	-	61,20,000
59	Legal Department	Revenue	3,31,15,000	-	3,31,15,000
60	Administration of Justice	Revenue	1,39,40,83,000	18,51,39,000	1,57,92,22,000
61	Other Expenditure pertaining to Legal Department	Revenue	14,32,85,000	-	14,32,85,000
		Capital	14,64,30,000	-	14,64,30,000
62	Legislative and Parliamentary Affairs Department	Revenue	1,99,80,000	-	1,99,80,000
63	Other Expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	15,00,000	-	15,00,000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	4,89,20,000	-	4,89,20,000
65	Narmada Development Scheme	Capital	10,19,94,22,000	-	10,19,94,22,000
66	Irrigation and Soil Conservation	Revenue	3,10,64,60,000	-	3,10,64,60,000
		Capital	6,78,28,00,000	-	6,78,28,00,000
67	Water Supply	Revenue	1,62,51,33,000	-	1,62,51,33,000
		Capital	5,46,72,00,000	-	5,46,72,00,000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Capital	15,31,30,000	-	15,31,30,000

1	2	3		
69	Panchayats, Rural Housing and Rural Development Department	Revenue	3,06,78,000	3,06,78,000
70	Community Development	Revenue	3,22,55,95,000	3,22,55,95,000
71	Rural Housing and Rural Development	Revenue	3,32,85,78,000	1,52,40,00,000
		Capital	1,000	1,000
72	Compensation and Assignments	Revenue	71,61,28,000	71,61,28,000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	1,14,42,00,000	1,14,42,00,000
		Capital	37,94,50,000	37,94,50,000
74	Fisheries	Revenue	51,63,11,000	51,63,11,000
		Capital	10,28,70,000	10,28,70,000
75	Other Expenditure pertaining to Ports and Fisheries Department	Revenue	81,55,000	81,55,000
76	Revenue Department	Revenue	15,98,55,000	15,98,55,000
77	Tax Collection Charges (Revenue Department)	Revenue	62,77,79,000	62,77,79,000
78	District Administration	Revenue	81,20,26,000	81,20,26,000
79	Relief on account of Natural Calamities	Revenue	3,69,45,01,000	3,69,45,01,000
80	Dangs District	Revenue	20,20,90,000	20,20,90,000
81	Compensation and Assignments	Revenue	36,11,65,000	14,35,000
		Capital	48,15,000	2,00,000
82	Other Expenditure pertaining to Revenue Department	Revenue	1,55,24,000	1,55,24,000
		Capital	1,45,20,000	1,45,20,000
83	Roads and Buildings Department	Revenue	6,11,00,000	6,11,00,000
84	Non-Residential Buildings	Revenue	2,28,66,55,000	7,00,000
		Capital	1,29,52,06,000	1,29,52,06,000
85	Residential Buildings	Revenue	78,59,47,000	78,59,47,000
		Capital	16,42,93,000	16,42,93,000
86	Roads and Bridges	Revenue	6,30,04,92,000	6,30,04,92,000
		Capital	6,82,25,36,000	6,82,25,36,000
87	Gujarat Capital Construction Scheme	Revenue	8,56,10,000	8,56,10,000
		Capital	23,08,00,000	23,08,00,000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	10,55,55,000	10,55,55,000
		Capital	29,78,75,000	29,78,75,000
89	Science and Technology Department	Revenue	91,50,90,000	91,50,90,000
90	Other Expenditure pertaining to Science and Technology Department	Revenue	42,77,00,000	42,77,00,000
		Capital	6,72,65,000	6,72,65,000

1	2	3		
91	Social Justice and Empowerment Department	Revenue	2,24,95,000	2,24,95,000
92	Social Security and Welfare	Revenue	2,29,96,59,000	95,00,000
		Capital	2,04,91,000	2,04,91,000
93	Welfare of Scheduled Tribes	Revenue	70,31,51,000	70,31,51,000
		Capital	2,00,00,000	2,00,00,000
94	Other Expenditure pertaining to Social Justice and Empowerment Department	Capital	2,47,55,000	2,47,55,000
95	Special Component Plan for Scheduled Castes	Revenue	3,35,33,55,000	3,35,33,55,000
		Capital	23,03,00,000	23,03,00,000
96	Tribal Area Sub-Plan	Revenue	10,21,71,93,000	10,21,71,93,000
		Capital	2,90,17,64,000	2,90,17,64,000
97	Sports, Youth and Cultural Activities Department	Revenue	1,12,60,000	1,12,60,000
98	Youth Services and Cultural Activities	Revenue	30,27,22,000	30,27,22,000
99	Other Expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	46,30,000	46,30,000
100	Urban Development and Urban Housing Department	Revenue	1,62,75,000	1,62,75,000
101	Urban Housing	Revenue	5,33,26,000	59,75,16,000
102	Urban Development	Revenue	4,64,83,55,000	4,64,83,55,000
		Capital	50,000	50,000
103	Compensation, Assignments and Tax Collection Charges	Revenue	72,50,00,000	30,01,03,000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	1,01,75,000	1,01,75,000
		Capital	35,21,000	35,21,000
105	Women and Child Development Department	Revenue	68,45,000	68,45,000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	1,94,97,43,000	55,00,000
		Capital	5,08,06,000	5,08,06,000
Total:		Revenue	1,88,44,13,48,000	62,00,14,60,000
		Capital	65,68,09,15,000	48,52,62,02,000
Grand Total:-			2,54,12,22,63,000	1,10,52,76,62,000
				3,64,64,99,25,000



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PUBLISHED BY AUTHORITY

Vol : XLVI]

WEDNESDAY, MARCH 23, 2005/CAITRA 2, 1927

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S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 15 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd March, 2005).

AN ACT

to provide, in the interests of the general public, for the control and regulation of the production, movement, supply and distribution of, and trade and commerce in certain commodities and the maintenance and movement of cattle in the State of Gujarat.

WHEREAS it is expedient to provide, in the interest of the general public, for the control and regulation of the production, movement, supply and distribution of certain commodities essential to the life of the community and for the control and regulation of trade and commerce therein, and for the maintenance, licensing and movement of cattle, and the licensing of dealers in such commodities and cattle, and for certain other purposes;

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

Short title and extent.

1. (1) This Act may be called the Gujarat Essential Commodities and Cattle (Control) Act, 2005.

(2) It extends to the whole of the State of Gujarat.

Definitions.

2. In this Act, unless the context otherwise requires, -

(a) "cattle" means any of the animals specified in Part II of the Schedule;

(b) "essential commodity" means a commodity specified in Part I of the Schedule;

(c) "notified order" means an order notified in the *Official Gazette*.

Amendment of Schedule.

3. The State Government may, by notification in the *Official Gazette*, direct additions to, or omissions from, either or both Parts of the Schedule whether generally, or with reference to any particular area specified in the notification, and the Schedule shall, on the issue of the notification, be deemed to be amended accordingly.

Powers to control production, supply, distribution, etc.

4. (1) If the State Government is of opinion that it is necessary or expedient so to do for maintaining or increasing the supply, or for securing the equitable distribution and availability at fair prices, of any essential commodity or cattle, it may, by order provide -

(a) for regulating or prohibiting the production, supply and distribution of, or trade and commerce in, such essential commodity,

(b) for regulating or prohibiting movement, supply and distribution of or trade and commerce in, or for regulating the maintenance of cattle.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide -

(a) for regulating licence, permit or otherwise the production or manufacture of any essential commodity;

(b) for regulating by licence, permit or otherwise the storage, movement, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;

- (c) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;
- (d) for requiring any person holding in stock any essential commodity to sell the whole or a specified part, of the stock at such price to the Government or to an officer or agent, of such Government or to such other person or class of persons, and in such circumstances, as may be specified in the order;
- (e) for controlling the price at which any essential commodity or cattle may be brought or sold;
- (f) for regulating by licence, permit or otherwise, the movement, transport, distribution, disposal, acquisition, use and keeping of cattle;
- (g) for collecting any information or statistics with a view to regulating or prohibiting any of the matters aforesaid;
- (h) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity or cattle to maintain and produce for inspection such books, accounts and records, relating to their business and to furnish such information relating thereto, as may be specified in the order;
- (i) for requiring owners as well as persons in charge of cattle to maintain and produce for inspection, such books, accounts and records relating to the number of cattle owned, controlled and maintained by them as may be specified in the order;
- (j) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles and vessels, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, and of any vehicle, vessel or animal which he has reason to believe has been, is being or is about to be used for carrying such articles, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) Where any person sells any essential commodity in compliance with an order made with reference to clause (d) of sub-section (2), there shall be paid to him the price therefor as hereinafter provided :-

- (a) where the price can consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;
- (b) where no such agreement can be reached, the price calculated with reference to such controlled price, if any;
- (c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

**Publication
and service of
orders.****5. (1) An order made under section 4 shall -**

- (a) if it is an order of a general nature or affecting a class of persons, be notified in the *Official Gazette*;
- (b) if it is an order affecting an individual corporation or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or, as the case may be, rule 3 of Order XXX in the First Schedule of the Code of Civil Procedure, 1908;
- (c) if it is an order affecting an individual person other than a corporation or firm, be served on the person -

V of 1908.

- (i) personally, by delivering or tendering to him the order, or
- (ii) by post, or
- (iii) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain and a written report of such affixing shall be prepared and witnessed by two persons living in the neighborhood.

(2) Where a question arises whether a person was duly informed of an order made in pursuance of section 4, compliance with the requirements of sub-section (1) shall be conclusive proof that he was so informed, but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

**Delegation of
powers.**

6. The State Government may, by notified order, direct that the power to make orders under section 4 shall be exercisable also by such officer or authority and in relation to such matters and subject to such conditions, if any, as may be specified in the order.

**Effects of orders
inconsistent with
other enactment.**

7. Any order made or deemed to be made under section 4 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or any instrument having effect by virtue of any enactment other than this Act.

**Ordinary
avocations of life to
be interfered with
as little as possible.**

8. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the general interest of the public.

Penalties.

9. (1) If any person contravenes any order made or deemed to be made under section 4, shall on conviction be punished, -

- (i) in the case of an order made with reference to clause (g), (h) or (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine;
- (ii) in the case of any other order, with imprisonment for a term which may extend to three years and shall also be liable to fine :

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded, refrain from imposing a sentence of imprisonment.

- (2) Any Court trying the contravention of an order may direct that any property in respect of which the Court is satisfied that the order has been contravened, and any vehicle, vessel or animal which the Court is satisfied has been used with the knowledge of the person having the control thereof for carrying such property, shall be forfeited to Government :

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

10. Any person who attempts to contravene, or abets a contravention of, any order made or deemed to be made under section 4, shall be deemed to have contravened that order. **Attempts and abetment.**

11. If any person -

False statements.

- (i) when required by any order made or deemed to be made under section 4 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular, and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

12. (1) If the person contravening an order made or deemed to be made under section 4 is a company, every person who at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly : **Offences by companies.**

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,

- (a) "company" means any body corporate and includes firm or other association of individuals; and
- (b) "director" in relation to a firm means a partner in the firm.

Cognisance of offences and composition thereof.

13. (1) No Court shall take cognisance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the person aggrieved by such offence or by a person who is a public servant as defined in section 21 of the Indian Penal Code.

XLV of 1860.

(2) The public servant aforesaid may, either before or after the institution of any proceedings for any offence punishable under this Act, accept from any person charged with such offence by way of composition of the offence a sum of money not exceeding one thousand rupees, and direct the release of any property which has been seized as liable to forfeiture under this Act on payment of the value thereof as estimated by him.

(3) On payment by such person of such sum of money, or such value or both, as the case may be, such person if in custody shall be set at liberty and if any proceedings have been instituted against such person in any criminal court, the composition shall be deemed to amount to an acquittal and in no case shall any further proceedings be taken against such person or property in respect of the same offence.

Special provision regarding fine.

14. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1973, it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf to pass a sentence of fine exceeding the pecuniary limit specified in that section as in force in any part of the State on any person convicted of contravening any order made or deemed to be made under section 4.

2 of 1974.

15. Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872.

Presumption as to order.

16. Where a person is prosecuted for contravening any order made or deemed to be made under section 4 which prohibits him from doing any act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

Burden of proofs in certain cases.

17. Any Magistrate or Bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1973, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act.

Power to try offence summarily.

18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4.

Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4.

19. The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Power to make rules.

20. (1) The Bombay Essential Commodities and Cattle (Control) Act, 1958 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal of the said Act, anything done or any action taken (including any rule or order made, notification issued or appointment made) by or under the said Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or taken by or under this Act and shall continue in force until superceded by anything done or any action taken under the provisions of this Act.

21. Nothing in this Act shall apply to any commodity or class of commodities which is an essential commodity, or which is declared to be an essential commodity, under the Essential Commodities Act, 1955, and if any commodity included in Part I of the Schedule is declared to be an essential commodity under that Act, then on such declaration, this Act shall

Act not to apply to essential commodity dealt with by Act X of 1955.

cease to apply thereto except as respects things done or omitted to be done before such declaration.

SCHEDULE

PART I

ESSENTIAL COMMODITIES

1. Bricks used for building purposes.

PART II

CATTLE

- | | |
|-------------|--------------|
| 1. Bulls | 5. Calves |
| 2. Bullocks | 6. Buffaloes |
| 3. Cows | 7. Goats |
| 4. Heifers | 8. Sheep |
-



सत्यमेव जयते

The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XLVI] WEDNESDAY, MARCH 23, 2005/CAITRA 2, 1927

Separate paging is given to this Part in order that it may be filed as a Separate
Compilation

PART - IV

**Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by
the Governor on the 23rd March, 2005 is hereby published for general
information.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 16 OF 2005.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette", on the 23rd March, 2005).

AN ACT

to provide for the establishment of the Dharmsinh Desai University, Nadiad,
Gujarat by law and to confer the status of a University thereon and for matters
connected therewith or incidental thereto.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as
follows:-

1. (1) This Act may be called the Dharmsinh Desai University Act, 2005.
- (2) It shall come into force on such date as the State Government may, by
notification in the *Official Gazette*, appoint.

**Short title and
commencement.**

Definitions.

2. In this Act, unless the context otherwise requires, -

- (a) "Academic Council" means the Academic Council of the University constituted under section 14;
- (b) "Board " means the Board of Governors of the University constituted under section 10;
- (c) "Chairman" means the Chairman of the Board appointed under section 11;
- (d) "Deans" mean the Deans of the University appointed under section 21;
- (e) "Finance Committee" means the Finance Committee of the University constituted under section 16;
- (f) "Foundation" means the Dharmsinh Desai Foundation, Vadodara;
- (g) "Patron Trustee" means the Patron Trustee of the Dharmsinh Desai Foundation, Vadodara ;
- (h) "President" means the President of the University appointed under section 7;
- (i) "prescribed" means prescribed by the regulations;
- (j) "Registrar" means the Registrar of the University appointed under section 20;
- (k) "Regulations" means the Regulations of the University made under section 32;
- (l) "Society" means the Dharmsinh Desai Foundation, Vadodara, a society registered under the Societies Registration Act, 1860;
- (m) "Trust" means the Dharmsinh Desai Foundation, Vadodara registered under the Bombay Public Trusts Act, 1950;
- (n) "University" means the Dharmsinh Desai University, Nadiad, Gujarat, a University established under section 3;
- (o) "Vice-Chancellor" means the Vice-Chancellor of the University appointed under section 18.

XXI of 1860.

Bom. 29 of
1950.**Establishment
and
incorporation
of University.**

3. (1) There shall be established a University by the name of "The Dharmsinh Desai University, Nadiad, Gujarat".

(2) The President, the Board, the Academic Council, the Vice-Chancellor, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constitute a body corporate by the name of "The Dharmsinh Desai University, Nadiad, Gujarat".

(3) The University shall function as a non-affiliating University established under this Act and it shall not affiliate any other college or

Institute for the award conferment of degree, diploma and certificate of its degree to the students admitted therein.

(4) Save as provided in clause (vi) of sub-section (1) of section 24 of this Act, the University shall not have any new grant-in-aid or other financial assistance which it was not receiving on the date of commencement of this Act, from the State Government.

(5) The University shall be a body corporate by the name aforesaid, having perpetual succession and common seal with power, subject to the provisions of this Act, to acquire and hold property, to contract and shall, by the said name, sue and be sued.

(6) In all suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar and all processes in such suits and proceedings shall be issued to, and served on, the Registrar.

(7) The headquarters of the University shall be at Nadiad, Gujarat.

4. The objects of the University shall be to develop the knowledge of science and technology, dental, medical, pharmacy, commerce, management and education for the advancement of mankind. The objects of the University shall be as follows, namely :-

Objects of
University.

- (i) disseminate, create and preserve knowledge and understanding by teaching, research, training and extension activities by effective demonstration and influence of its corporate life on society in general;
- (ii) to create centres of excellence for providing knowledge, education, training and research facilities of high order in the field of science and technology, dental, medical, pharmacy, commerce, management and other related professional education as per its current status and such other matters as may develop in future, including continuing education;
- (iii) to develop patterns of teaching for a certificate or diploma, upto undergraduate, post-graduate and doctoral level and to maintain a high standard of education and its applications; to create capabilities for upgrading science and technology, dental, medical, pharmacy, commerce, management and technology infrastructure of the global standards;
- (iv) to develop training facilities in higher education including professional education and allied fields; to provide for inter relationships for national and global participation in the field of science and technology, dental, medical, pharmacy, commerce, management and its allied fields;
- (v) to function as a learning resource centre;
- (vi) to provide for arrangement for national and global participation in the field of higher and professional education including technical

education, science and technology, dental, medical, pharmacy, commerce, management; and

- (vii) to establish close linkage with the industry to make teaching, research and training at the University relevant to the needs of the economy, at national and global level.

University
open to all
irrespec
tive of
sex,
religion,
class,
creed or
opinion.

5. (1) No person shall be excluded from any office of the University or from membership of any of its authorities or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, caste, class, place of birth, religious belief or profession of political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place of birth, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privileges of the University or any benefaction thereof.

Powers
and
functions
of
University.

6. Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely:-

- (i) to administer and manage the University and such centres for research, education and instruction as are necessary for the furtherance of the objects of the University;
- (ii) to provide for instruction, training and research in such branches of knowledge or learning pertaining to science and technology, dental, medical, pharmacy, commerce, management and allied areas and for the advancement and dissemination of science and technology and allied areas;
- (iii) to conduct innovative experiments in new methods and technologies in the field of science and technology in order to achieve international standards of such education, training and research;
- (iv) to prescribe courses and curricula and provide for flexibility in the education system and delivery methodologies including electronic and distance learning;
- (v) to hold examinations through electronic mode also and confer degrees, diplomas or grant certificates, and other academic distinctions or titles on persons subject to such conditions as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates, or other academic distinctions or titles in the manner prescribed by the Regulations;
- (vi) to confer honorary degrees or other distinctions in the manner prescribed by the Regulations;

- (vii) to establish such special centers, specialized study centers or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;
- (viii) to provide for printing, reproduction and publication of research and other works and to organise exhibitions;
- (ix) to sponsor and undertake research in all aspects of science and technology, dental, medical, pharmacy, commerce, management and allied areas;
- (x) to collaborate or associate with, advise, administer, control, develop, maintain, or take over by way of merger or otherwise, any educational institution with like or similar objects;
- (xi) to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partially similar to those of the University, through exchange of teachers and scholars, and generally in such manner as may be conducive to their common objects;
- (xii) to develop and maintain relationships with teachers, 23rd March, researchers, and domain experts in science and technology, dental, medical, pharmacy, commerce, management and allied areas in any part of the world for achieving the objects of the University;
- (xiii) to regulate the expenditure and to manage the finances and to maintain accounts of the University;
- (xiv) to receive funds from industry, national and international organisations or any other source as gifts, donations, benefactions, bequests and by transfers of movable and immovable properties, for the purposes and objects of the University;
- (xv) to establish, maintain and manage halls and hostels for the residence of students;
- (xvi) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xvii) to fix, demand and receive or recover fees and such other charges as may be prescribed by the Regulations;
- (xviii) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xix) to purchase or to take on lease or accept as gifts or otherwise any land or building or works which may be necessary or convenient for the purpose of the University and on such terms

and conditions as it may think fit and proper and to construct or alter and maintain any such building or works;

- (xx) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms as it may think fit and consistent with the interest, activities and objects of the University;
- (xxi) to draw and accept, to make and endorse, to discount and negotiate, promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxii) to raise and borrow money on bond, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of money, and to repay and redeem any money borrowed;
- (xxiii) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit;
- (xxiv) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements and other conveyances in respect of property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University;
- (xxv) to admit the students for the courses offered by the University in the manner prescribed by the Regulations;
- (xxvi) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;
- (xxvii) to regulate and enforce discipline among the employees of the University and to provide for such disciplinary measures as may be prescribed by the Regulations;
- (xxviii) to institute professorship, associate professorship, assistant professorship, readerships, lecturerships and any other teaching, academic or research posts and to prescribe by Regulations qualifications for them;
- (xxix) to appoint persons as professors, associate professors, assistant professors, readers, lecturers or teachers and researchers of the University;
- (xxx) subject to the provisions of this Act and regulations, any officer or authority of the University may, by order, delegate his or its powers except the power to make regulations to any other officer or authority under his or its control and subject to the condition that the ultimate responsibility for the exercise of the

powers so delegated shall continue to vest in the officer or authority delegating them; ...

- (xxxi) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

7. (1) The Patron Trustee of the Dharmsinh Desai Foundation, Vadodara shall be the President of the University for life at his pleasure. He may at his pleasure designate any other permanent trustee of the trust to be the President of the University. **President.**

(2) The President shall have, subject to the provisions of this Act, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, libraries, equipments and systems and processes and of any institution or centre maintained by the University, and also of the examinations, teaching, research and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration and finances of the University.

8. The following shall be the authorities of the University, namely:- **Authorities of University.**

- (a) the Board;
- (b) the Academic Council;
- (c) the Finance Committee; and
- (d) such other authorities as may be prescribed by the Regulations.

9. The following shall be the officers of the University, namely:- **Officers of University.**

- (a) the Vice-Chancellor,
- (b) the Deans,
- (c) the Registrar, and
- (d) such other persons as may be prescribed by the Regulations.

10. (1) The Board of Governors of the University shall consist of the following members, namely:- **Board of Governors.**

- (i) the President shall be the Chairman of the Board;
- (ii) two representatives of the Trust;
- (iii) Vice-Chancellor of the University;
- (iv) two Deans of the University, by rotation, to be nominated by the Vice-Chancellor;
- (v) the Secretary to Government, (Higher and Technical Education), Education Department, Government of Gujarat;
- (vi) three experts academicians to be nominated by the President;

- (vii) three experts representing other disciplines such as finance, legal, management, humanities to be nominated by the President; and
- (viii) two representatives of the Industries to be nominated by the President.

(2) The Registrar shall be the Secretary of the Board.

**Chairman
of Board.**

11. (1) The Chairman shall preside over at the meetings of the Board and at the convocations of the University.

(2) The Chairman shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Regulations.

**Powers
and func-
tions of
Board.**

12. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and control of the affairs of the University and shall exercise all the powers of the University, and shall have the power to review the acts of the Academic Council and the Finance Committee.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and functions, namely :-

- (i) to take decisions on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make Regulations;
- (iv) to consider and approve the annual report and the annual accounts of the University for every financial year;
- (v) to invest moneys and funds of the University and take decisions on the recommendations of the Finance Committee;
- (vi) to publish or finance the publication of studies, treatises, books, periodicals, reports and other literature and to sell or arrange for the sale as it may deem fit from time to time;
- (vii) to create or abolish posts of teachers and other employees of the University;
- (viii) to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act;
- (ix) to delegate any of its powers to the Vice-Chancellor, Deans, Registrar, or any other officer, employee or authority of the University or to a committee appointed by it; and

- (x) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by this Act or Regulations and such other powers for achieving the objects of the University.

13. (1) Save as otherwise provided in this section, the term of nominated members of the Board shall be three years from the date of nomination;
- (2) an *ex-officio* member shall continue so long as he holds the office by virtue of which he is such member;
- (3) any vacancy in the Board occurring before the next reconstitution or before the expiry of the prescribed period shall be filled by nomination of another person by the President;
- (4) a member nominated under sub-section (3) shall continue for the remainder of the term of a member in whose place he is nominated;
- (5) an outgoing member shall be eligible for re-nomination for the next term;
- (6) a member may resign his office by writing under his hand addressed to the President but he shall continue in office until his resignation has been accepted by the President.

**Terms of
office and
vacancies
among
members
of Board.**

14. (1) The Academic Council of the University shall consist of the following members, namely:-

**Academic
Council.**

- (i) the Vice-Chancellor of the University, *ex-officio*, who shall be the Chairman of the Academic Council;
 - (ii) two academicians or professionals, to be nominated by the Board;
 - (iii) two external academicians or professionals in the area of science and technology, to be nominated by the Vice-Chancellor;
 - (iv) two Deans of the University, by rotation to be nominated by the Vice-Chancellor;
 - (v) one Professor from each discipline of the University, by rotation to be nominated by the Vice-Chancellor; and
 - (vi) the Registrar who shall be the non-member secretary of the Council.
- (2) The term of office of the members other than the *ex-officio* member shall be three years.

Powers
and
functions
of
Academic
Council.

15. Subject to the provisions of this Act, and the Regulations, the Academic Council of the University shall have the following powers and functions, namely:-

- (i) to exercise control over the academic policies of the University and shall be responsible for the maintenance and improvement of standards of instruction, education and evaluation in the University;
- (ii) to consider matters of general academic interest either on its own initiative or on a reference from the Faculty of the University or the Board and to take appropriate action thereon;
- (iii) to recommend to the Board such Regulations as are consistent with this Act regarding the academic functioning of the University including discipline of students; and
- (iv) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Regulations.

Finance
Committee.

16. (1) The Finance Committee shall consist of the following members, namely:-

- (i) the Vice-Chancellor of the University *ex-officio* shall be the Chairman of the committee;
- (ii) one member of the Board to be nominated by the President;
- (iii) one Dean of the University by rotation to be nominated by the Vice-Chancellor;
- (iv) one expert to be nominated by the President; and
- (v) the Registrar shall be the non-member secretary of the committee.

(2) The term of office of the members other than the *ex-officio* member shall be three years.

Powers
and
functions
of
Finance
Committee.

17. Subject to the other provisions of this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:-

- (i) to examine the annual accounts and annual budget estimates of the University and advise the Board thereon;
- (ii) to review the financial position of the University from time to time;
- (iii) to make recommendations to the Board on all financial policy matters of the University;
- (iv) to make recommendations to the Board on all proposals involving raising of funds, receipts and expenditure;

- (v) to provide guidelines for investment of surplus funds;
 - (vi) to make recommendations to the Board on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget has been incurred;
 - (vii) to examine all proposals relating to revision of scale, upgradation of the scale and those items which are not included in the budget, before they are placed before the Board; and
 - (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Regulations.
18. (a) The Vice-Chancellor shall be appointed by the Board out of the panel of names recommended from time to time by the committee consisting of the following members, namely:-
- Vice-Chancellor.
- (i) an eminent technologist to be nominated by the President;
 - (ii) an eminent educationist to be nominated by the President; and
 - (iii) one member of the Board to be nominated by the President.
- (b) The President shall designate one member as the Chairman of the committee.
- (c) The term of office of the Vice-Chancellor shall be determined by the Board for the period not exceeding five years.
- (d) Notwithstanding anything contained in clauses (a) and (c), the Vice-Chancellor of the University holding the office at the commencement of this Act, shall be deemed to have been appointed as the first Vice-Chancellor.
- (e) Where a vacancy in the office of Vice-Chancellor occurs and it cannot be conveniently and expeditiously filled up in accordance with the provisions of clauses (a) and (c) and if there is any emergency, the President, in consultation with the Board, may appoint any suitable person to be the Vice-Chancellor and may, from time to time, extend the term for a period not exceeding one year.
- (f) The terms and conditions of service of the Vice-Chancellor shall be such as may be prescribed by the Board and until so prescribed, shall be determined by the President.

**Powers and
duties of Vice-
Chancellor.**

19. (1) The Vice-Chancellor shall be the Chief Executive and Academic Officer of the University. He shall preside over at the meetings of the Academic Council and Finance Committee.

(2) Without prejudice to the generality of the provision contained in sub-section (1), the Vice-Chancellor shall -

- (i) exercise general supervision and control over the affairs of the University;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instruction and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him under this Act or the Regulations or as may be delegated to him by the Board or by the President.

(3) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the Chairman or authority or body of the University empowered under this Act to deal with it, the Vice-Chancellor may take such action as he may deem fit and shall forthwith report the action taken by him to the Chairman or authority or body of the University who or which, in the ordinary course, would have dealt with the matter:

Provided that if such authority or other body is of the opinion that such action ought not have been taken by the Vice-Chancellor, it may refer the matter to the Chairman who may either confirm the action taken by the Vice-Chancellor or annul the same or modify it in such manner as he thinks fit, and thereupon it shall cease to have effect or as the case may be, shall take effect in such modified form; so however such modification or annulment shall be without prejudice to the validity of anything previously done by or under the orders of the Vice-Chancellor.

(4) Where the exercise of the power by the Vice-Chancellor under sub-section (3) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment, in accordance with the provisions of this Act and the Regulations, not later than six months from the date of the order of the Vice-Chancellor, otherwise the same shall cease to have effect on the expiration of a period of six months from the date of the order of the Vice-Chancellor.

Registrar.

20. (1) The Registrar shall be appointed by the University in such manner and on such terms and conditions as may be prescribed by the Regulations.

(2) The Registrar shall exercise the following powers and perform following duties, namely:-

- (i) he shall be responsible for the custody of records, common seal, the funds of the University and such other property of the University;

- (ii) he shall place before the Board and other authorities of the University, all such information as may be necessary for transaction of its business;
- (iii) he shall be responsible to the Vice-Chancellor for the proper discharge of his functions;
- (iv) he shall, subject to the control of the Vice-Chancellor, be responsible for the administration and services of the University and conduct the examinations and make all other arrangements necessary thereof and be responsible for the execution of all processes connected therewith;
- (v) he shall attest and execute all documents on behalf of the University; and
- (vi) he shall exercise such other powers and perform such other duties as may be assigned to him under this Act, the Regulations or as may be delegated to him by the Board or the Vice-Chancellor.

21. (1) The Deans of the University shall be appointed by the Vice-Chancellor, with the approval of the Chairman of the Board, from amongst the Faculty of the University. **The Deans.**

(2) The Deans shall assist the Vice-Chancellor in managing the academic and other affairs of the University and shall exercise such powers and perform such duties as may be prescribed by the Regulations or be entrusted to them by the Vice-Chancellor.

22. The trust shall place funds at the disposal of the University to be called the Permanent Endowment Fund of a sum of ten crores of rupees or a sum required for meeting the full operational expenditure of the University for three years, in long term interest bearing securities issued or guaranteed by the Central or State Government. On the termination of the involvement of the trust and after meeting the operational expenditure for three years, out of the Permanent Endowment Fund, if there is any unused balance that shall be paid back to the trust. **Permanent Endowment Fund of University.**

23. The trust may pay to the University from time to time such sums of money and in such manner as may be considered necessary for the exercise of its powers and discharge of its functions under this Act. **Payment to University.**

24. (1) The University shall have its own funds consisting of - **Funds of University.**

- (i) all moneys provided by the trust;
- (ii) all fees and other charges received by the University;
- (iii) all moneys received by the University by way of grants, loans, gifts, donations, beneficences, bequests or transfers;

- (iv) all moneys received by the University from the collaborating industry in terms of the provisions of the Memorandum of Understanding between the University and the industry, for establishment of sponsored chairs, fellowships and infrastructure facilities of the University;
- (v) all moneys received by the University in any other manner or from any other source; and
- (vi) all moneys received by the University by way of grant-in-aid from the State Government for the courses which are conducted at the time of commencement of this Act.

(2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on recommendation of the Finance Committee.

(3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions.

Accounts
and
audit.

25. (1) The University shall maintain proper accounts and other records, and prepare an annual statement of accounts, including the income and expenditure account and the balance sheet, in such form and in such manner as may be prescribed by the Regulations.

(2) The University shall adopt a proper system of internal checks and balances and controls in the discharge of its finance, accounting and auditing functions as may be prescribed by the Regulations.

(3) The accounts of the University shall be audited not less than once per year by an auditor who shall be a Chartered Accountant or a firm of Chartered Accountants as defined in the Chartered Accountant Act, 1949, who shall be appointed by the Board.

XXVII
of
1949.

(4) The accounts of the University certified by the person or firm so appointed or any other person authorised in this behalf together with the audit report thereon shall be placed before the Board and the Board may issue such instructions to the University in respect thereof as it deems fit and the University shall comply with such instructions.

(5) The accounts of the University shall be audited by an internal auditor who shall be a Chartered Accountant or a firm of Chartered Accountants appointed by the Board, to ensure concurrent audit of all books of accounts, and such periodic internal audit reports shall be placed before the Board for review.

(6) The University shall prepare each year a report of its activities during the previous year and submit it in the form of an annual report to the Board for review and approval.

26. (1) The University shall, with approval of the Board, constitute for the benefit of its officers, teachers and other employees, in such manner and subject to such conditions, as may be prescribed by the Regulations, such scheme of pension, provident funds and insurance as it may deem fit, and also aid in establishment and support of the associations, institutions, funds, trusts and conveyance calculated to benefit the staff and the students of the University.

Pension
and
provident
fund.

(2) Where any such provident fund has been so constituted, the provisions of the Provident Funds Act, 1925, shall apply to such fund as if it were a Government provident fund.

XIX
of
1925.

27. No act or proceeding of the Board, or any authority of the University or any committee constituted under this Act or by the Regulations shall be questioned on the ground merely of the existence of any vacancy in or defect in the constitution of, the Board, authority or committee of the University.

Acts and
proceedings
not to be
invalidated by
vacancies.

28. Notwithstanding anything contained in any other law for the time being in force, the University shall have powers to confer degrees, honorary degrees, diplomas and other academic distinctions, titles and grant certificates as approved by the Board.

Conferment
of degrees,
diplomas and
grant of
certificates
by
University.

29. The University shall furnish to the State Government, University Grants Commission and other statutory authorities such reports, returns, statements and other information as may be required by them from time to time.

Returns
and
information.

30. The trust shall give a notice of not less than six months period to the State Government of its intention to dissolve the trust. Upon receipt of any notice from the trust, the State Government shall make arrangements for administration of the University from the date of dissolution of the trust and until the last batch of students in regular courses of the University complete their courses. The expenditure for administration of the University during taken-over period of its management shall be met out of the Permanent Endowment Fund of the University. On dissolution of the trust, this fund shall be in the form of a corpus fund.

Management
of University
on dissolution
of trust.

31. The State Government shall have powers to issue directions from time to time as may be required to be followed by the University under the provisions of this Act, the Regulations made thereunder and under any other law for the time being in force.

Powers of
State
Government.

32. (1) Subject to the provisions of this Act, the Board shall have, in addition to all other powers vested in it, the power to make Regulations to provide for the administration and management of the affairs of the University.

Regulations.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-

- (i) the summoning and holding of meetings of the authorities of the University, other than the first meeting of the Board, and the quorum and conduct of business at such meetings;
- (ii) the powers and functions to be exercised and discharged by the President of the Board of the University;
- (iii) the constitution, powers and duties of the authorities, bodies and other committees of the University established under this Act, the qualifications and disqualifications for membership of such authorities, term of office of the membership, appointment and removal of members thereof and other matters connected therewith;
- (iv) the procedure to be followed by the Board and any committee or other body constituted under this Act or by the Regulations in the conduct of the business, exercise of the powers and discharge of the functions;
- (v) the procedure and criteria to be followed in establishing courses of study and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the degrees, diplomas, certificates and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degrees, diplomas, certificates and other academic distinctions and titles and the requirements thereof;
- (ix) the conduct of examinations including the term of office and appointment of examiners;
- (x) the creation of posts of Professors, Associate Professors, Assistant Professors, Readers, Lecturers or equivalent academic designations or posts, officers and employees of the University, and the appointment of persons to such posts including the qualifications requisite therefor;
- (xi) the fees and other charges which may be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the manner and conditions for constitution of pension, provident funds, insurance and such other schemes for the benefit of officers, teachers, and other employees of the University;

- (xiii) the terms and conditions applicable for association of the University with other institutions;
- (xiv) the preparation of budget estimates and maintenance of accounts;
- (xv) the mode of execution of contracts or agreement by or on behalf of the University;
- (xvi) the classification and procedure for appointment of officers and staff of the University;
- (xvii) the terms and tenure of appointments, salaries and allowances, contractual services, rules of discipline and other conditions of service of the Vice-Chancellor, other officers, teachers and employees of the University;
- (xviii) the terms and conditions governing deputation of officers and staff of the University;
- (xix) the powers and duties of the Vice-Chancellor and other officers, teachers and employees of the University;
- (xx) the terms and conditions governing fellowship, scholarships, stipends, medals and prizes;
- (xxi) the authentication of the orders and decisions of the Board;
- (xxii) the matters relating to hostels and halls of residence including disciplinary control therein; and
- (xxiii) all matters which, by this Act, are to be or may be prescribed by the Regulations.

33. If any difficulty arises with respect to the establishment of the University or in connection with the first meeting of any authority of the University or otherwise in giving effect to the provisions of this Act and the Regulations, the President of the University may, at any time, before all authorities of the University have been constituted, by order, make any appointment or do anything consistent, so far as may be, with the provisions of this Act and the Regulations, which appear to him necessary or expedient for the purpose of removing the difficulty and every such order shall have effect as if such appointment or action had been made or taken in the manner provided in this Act and the Regulations;

Provided that before making any such order the President may ascertain and consider the opinion of the Vice-Chancellor and of such appropriate authority of the University as may have been constituted.

Removal of
difficulties at
commencement.

Transitory provisions.**34.** Notwithstanding anything contained in this Act,-

- (1) the Vice-Chancellor may, with the prior approval of the President and subject to availability of funds, discharge all or any of the functions of the University for the purpose of carrying out the provisions of this Act and the Regulations and for that purpose may exercise any power or perform any duties which by this Act and the Regulations are to be exercised or performed by any authority of the University until such authority comes into existence as provided by this Act and the Regulations;
- (2) the Board functioning as such immediately before the commencement of this Act shall continue to so function until the Board is constituted for the University under this Act, but on the constitution of the Board under this Act, the members of the Board holding office before such constitution shall cease to hold office;
- (3) the Academic Council functioning as such immediately before the commencement of this Act shall continue to so function until the Academic Council is constituted for the University under this Act, but on the constitution of the Academic Council under this Act, the members of the Academic Council holding office before such constitution shall cease to hold office;
- (4) the Finance Committee functioning as such immediately before the commencement of this Act shall continue to so function until the Finance Committee is constituted for the University under this Act, but on the constitution of the Finance Committee under this Act, the members of the Finance Committee holding office before such constitution shall cease to hold office;
- (5) until the first Regulations of the University are made under this Act, the existing rules and regulations of the Dharmsinh Desai Institute of Technology, Nadiad declared as deemed University approved by the Board as in force immediately before the commencement of this Act, shall continue to apply to the University, in so far as they are not inconsistent with the provisions of this Act.

Indemnity.

35. No suit, prosecution or other legal proceedings shall lie against and no damages shall be claimed from the University, the Vice-Chancellor, the authorities or officers of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or any Regulation made thereunder.



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The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLVI]

WEDNESDAY, MARCH 23, 2005/CAITRA 2, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART I V

Acts of the Gujarat Legislature and Ordinances promulgated
and regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 23rd March, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 17 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd March, 2005).

AN ACT

further to amend the Bombay Provincial Municipal Corporations Act, 1949,
the Gujarat Municipalities Act, 1963 and
the Gujarat Panchayats Act, 1993

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Local Authorities Laws
(Amendment) Act, 2005.

(2) It shall come into force on such date as the State Government may,
by notification in the *Official Gazette*, appoint.

Short title
and
commence-
ment.

Amendment
of section 10
of Bom.LIX of
1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949, in section 10, in sub-section (1), after clause (i), the following clause shall be inserted, namely:-

Bom. LIX
of 1949.

"(j) has more than two children:

Provided that a person having more than two children on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2005 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Guj. 17 of
2005.

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification under this clause.

Explanation .- For the purpose of this clause,-

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of single subsequent delivery shall be deemed to be one entity;

(ii) 'child' does not include an adopted child or children."

Amendment of
section 11 of
Guj. 34 of 1964.

3. In the Gujarat Municipalities Act, 1963, in section 11, in sub-section (1), after clause (g), the following clause shall be inserted, namely:-

Guj 34 of
1964.

"(h) who has more than two children:

Provided that a person having more than two children on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2005 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause, so long as the number of children he had on the date of such commencement does not increase:

Guj.17 of
2005.

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into

consideration for the purpose of disqualification under this clause.

Explanation .— For the purpose of this clause,-

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of single subsequent delivery shall be deemed to be one entity;

(ii) 'child' does not include an adopted child or children."

Guj. 18 of
1993.

4. In the Gujarat Panchayats Act, 1993, in section 30, in sub-section (1), after clause (l), the following clause shall be inserted, namely:-

Amendment of
section 30 of
Guj. 18 of
1993.

"(m) has more than two children:

Guj. 17 of
2005.

Provided that a person having more than two children on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2005 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification under this clause.

Explanation .— For the purpose of this clause,-

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of single subsequent delivery shall be deemed to be one entity;

(ii) 'child' does not include an adopted child or children."



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 23rd March, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 18 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd March, 2005).

AN ACT

further to amend the Gujarat Maritime Board Act, 1981 and to validate the levy and collection of the waterfront royalty.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Maritime Board (Amendment and Validation) Act, 2005.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st April, 1999.

2. In the Gujarat Maritime Board Act, 1981 (hereinafter referred to as "the principal Act"), after section 22, the following section shall be inserted, namely :-

Insertion of new section 22A in Guj. 30 of 1981.

Guj. 30 of 1981.

Levy of
waterfront
royalty.

"22A. The State Government may levy waterfront royalty on the basis of per ton cargo handled at minor ports which are under administration, control and management of the Board, at such rate as the State Government may, by notification in the *Official Gazette*, fix and shall be payable to the State Government by the Board for the utilization of the State waterfront and such payment shall be deemed to be a part of the expenditure of the Board."

Amendment of
section 74 of Guj.
30 of 1981.

3. In the principal Act, in section 74, in sub-section (1), after clause (g), the following clause shall be inserted, namely :-

"(gg) the waterfront royalty payable to the State Government under section 22A;"

Validation.

4. (1) The royalty in whatever name levied, assessed and collected or purporting to have been levied, assessed or collected under the principal Act on the basis of per ton cargo handled at minor port on or after the 1st April, 1999 shall be and shall be deemed always to have been validly levied, assessed or collected in accordance with law as if the provisions of the principal Act, as amended by this Act, had been in force at all material times when such royalty was levied, assessed or collected and accordingly, -

- (a) no suit, appeal, application or other proceedings shall be maintained or continued in any court or before any tribunal or authority whatsoever for the refund of the said royalty;
- (b) no court, tribunal or other authority shall enforce any decree or order directing refund of the said royalty; and
- (c) recoveries shall be made in accordance with the provisions of the principal Act as if said provisions had been in force at all material times.

(2) For the removal of doubt, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person -

- (a) from questioning, in accordance with the provisions of the principal Act, as amended by this Act, the levy, assessment or collection of the aforesaid royalty, or
- (b) from claiming, in accordance with the provisions of the principal Act, as amended by this Act, refund of the aforesaid royalty paid by him in excess of the amount due from him.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR



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EXTRAORDINARY

PUBLISHED BY AUTHORITY

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PART - IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 23rd March, 2005 is hereby published for general information.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 19 OF 2005.

(First Published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd March, 2005)

AN ACT

to provide for the establishment of the Ganpat University, Kherva, District Mehsana, Gujarat by law and to confer the status of a non-affiliating University thereon and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Ganpat University Act, 2005.

Short title and
commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, -

- (a) "Academic Council" means the Academic Council of the University constituted under section 14;
- (b) "Board" means the Board of Governors of the University constituted under section 10;
- (c) "Chairman" means the Chairman of the Board appointed under section 11;
- (d) "Director" means the director of the University appointed under section 18;
- (e) "Deans" mean the Deans of the University appointed under section 21;
- (f) "Finance Committee" means Finance Committee of the University constituted under section 16;
- (g) "Foundation" means the Mehsana District Education Foundation, Kherva, Mehsana;
- (h) "Patron-in-Chief" means a pioneer donor of the foundation;
- (i) "President" means the President of the University appointed under section 7;
- (j) "Prescribed" means prescribed by the Regulations;
- (k) "Registrar" means Registrar of the University appointed under section 20;
- (l) "Regulations" means the Regulations of the University made under section 34;
- (m) "Trust" means the Mehsana District Education Foundation, Mehsana registered under the Bombay Public Trusts Act, ^{Bom. 29 of 1950.} 1950;
- (n) "University" means the Ganpat University Kherva, District Mehsana, Gujarat, established and incorporated under section 3.

CHAPTER II

UNIVERSITY

Establishment
and
incorporation
of University.

3. (1) There shall be established a University by the name of "the Ganpat University, Kherva, District Mehsana, Gujarat".

(2) The Patron-in-Chief, the President, the Board, the Academic Council, the Director, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constitute a body corporate by the name of "the Ganpat University, Kherva, District Mehsana, Gujarat".

(3) The University shall function as a non-affiliating University established under this Act and it shall not affiliate any other college or institute for the award conferment of degree, diploma and certificate of its degree to the students admitted therein.

(4) The University shall not have any grant-in-aid or other financial assistance from the Central Government, any State Government, University Grants Commission, All India Council for Technical Education or any other authority or institutions of the Central Government or any State Government.

(5) The University shall be a body corporate by the name aforesaid, having perpetual succession and common seal with power, subject to the provision of this Act, to acquire and hold property, to contract and shall, by the said name, sue and be sued.

(6) The headquarters of the University shall be at the Ganpat Vidyanagar, Kherva, District Mehsana.

4. The objects of the University shall be to develop the knowledge of science, technology, dental, medical, paramedical, physiotherapy, pharmacy, commerce, management and humanities for the advancement of mankind. The objects of the University shall be as follows, namely:-

Objects of
University.

(i) to disseminate, create and preserve knowledge and understanding by teaching, research, training and extension activities by effective demonstration and influence of its corporate life on society in general;

(ii) to create centres of excellence for providing knowledge, education, training and research facilities of high order in the field of science, technology, dental, medical, physiotherapy, paramedical, pharmacy, commerce, management, humanistic and other related professional education as per its current status and such other matters as may develop in future, including continuing education and distance learning;

- (iii) to develop patterns of teaching for a Certificate or Diploma Courses, Undergraduate, and Post-graduate courses and at Doctoral level and to maintain a high standard of education, its applications; to create capabilities for upgrading science and technology, dental, medical, physiotherapy, paramedical, pharmacy, commerce, management, humanistic courses;
- (iv) to develop training facilities and to make arrangements for training in higher education, professional education, and allied fields, to provide for inter-relationship for national and international participation, in the field of science and technology, dental, medical, physiotherapy paramedical, pharmacy, commerce, management, and its allied fields;
- (v) to function as a learning resource centre;
- (vi) to establish close linkage with the industry to make teaching, research and training at the University, relevant to the needs of the society, at national and international level.

University
open to all
irrespective
of sex,
religion,
class, creed
or opinion.

5. (1) No person shall be excluded from any office of the University or from membership of any of its authorities or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, caste, class, place of birth, religious belief or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place, of birth, religious belief or political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma, or other academic distinction or to enjoy or exercise any privilege of the University or any benefaction thereof.

Powers and
functions of
University.

6. The University shall exercise the following powers and perform the following functions, namely:-

- (i) to administer and manage the University and such centres for research, education and instruction as are necessary for the furtherance of the objects of the University;
- (ii) to provide for instruction, training, research advancement and dissemination in such branches of knowledge or learning pertaining to science, technology, dental, medial, physiotherapy, pharmacy, commerce, management, humanitics and allied areas;
- (iii) to conduct innovative experiments in new teaching and learning methods and technologies in the above referred subjects in order to achieve international standards of such education, training and research;

- (iv) to prescribe courses and curricula and provide for flexibility in the education system and delivery methodologies including electronic and distance learning;
- (v) to hold examinations through electronic mode and confer degrees, diplomas or grant certificates, and other academic distinctions or titles on persons subject to such conditions as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates, or other academic distinctions or titles in the manner prescribed by the Regulations;
- (vi) to confer honorary degrees or other distinctions in the manner prescribed by the Regulations;
- (vii) to establish such special centres, specialized study centres or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;
- (viii) to provide for printing, reproduction and publication of research and other works and to organize exhibitions;
- (ix) to sponsor and undertake research in the different areas of science, technology, dental, medical, physiotherapy, pharmacy, commerce, management, and humanities;
- (x) to collaborate or associate with, advise, develop, maintain, or otherwise, any educational institution with like or similar objects;
- (xi) to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partially similar to those of the University, through exchange of teachers and scholars, and generally in such manner as may be conducive to their common objects;
- (xii) to develop and maintain relationships with teachers, researchers and domain experts in science, technology, dental, medical, physiotherapy, pharmacy, commerce, management, humanities and allied areas in any part of the world for achieving the objects of the University;
- (xiii) to regulate the expenditure and to manage the finances and to maintain accounts of the University;
- (xiv) to receive funds from industry, national and international organizations or any other source as gifts, donations, benefactions, bequests and by transfers of movable and immovable properties for the purpose and objects of the University, under the intimation to the State Government;
- (xv) to establish, maintain and manage halls and hostels for the residence of students;

- (xvi) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xvii) to fix, demand and receive or recover fees and such other charges as may be prescribed by the Regulations, in accordance with the guidelines of the State Government or National statutory bodies;
- (xviii) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xix) to purchase or to take on lease or accept as gifts or otherwise any land or building or works which may be necessary or convenient for the purpose of the University and on such terms and conditions as it may think fit and proper and to construct or alter and maintain any such building or works under the intimation to the State Government;
- (xx) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms as it may think fit and consistent with the interest, activities and objects of the University, under the intimation to the State Government;
- (xxi) to draw and accept, to make and endorse, to discount and negotiate, promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxii) to raise and borrow money on bond, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of money, and to repay and redeem any money borrowed, under the approval of the State Government;
- (xxiii) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of University;
- (xxiv) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements, and other conveyances in respect of property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University, under the intimation to the State Government.;
- (xxv) to admit the students for the courses offered by the University in the manner prescribed by the Regulations;

- (xxvi) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;
- (xxvii) to regulate and enforce discipline among the students, employees of the University and to provide for such disciplinary measures as may be prescribed by the Regulations;
- (xxviii) to institute professorships, associate professorships, assistant professorships, readerships, lectureships, and any other teaching, academic or research posts and to prescribe qualifications by Regulations, in accordance with the guidelines prescribed by University Grant Commission or concerned National Technical or Professional councils, for such matters;
- (xxix) to appoint qualified persons as professors, associate professors, assistant professors, readers, lecturers or as teachers and researchers of the University;
- (xxx) subject to the provisions of this Act and Regulations, any officer or authority of the University may, by order, delegate his or its powers except the power to make Regulations to any other officer or authority under his or its control;
- (xxxi) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

CHAPTER III AUTHORITIES OF UNIVERSITY

7. (i) There shall be a Patron-in-Chief of the University. **Patron-in-Chief, President and his powers.**
 - (ii) The First President of the University shall be nominated by the Patron-in-Chief.
 - (iii) The first President shall hold office during the pleasure of the Patron-in-Chief or for his lifetime, whichever is earlier.
 - (iv) In the event of the first President ceases to hold office, a President shall be nominated by the managing committee of the foundation from amongst the permanent members of the Executive Committee of the foundation for five years, and shall be eligible for reappointment to that office for a further term of five years.
- (2) The President shall have, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, libraries, equipments and systems and processes and of any institution or centre maintained by the University, and also of the examinations, teaching, research and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration and finances of the University.

8. The following shall be the authorities of the University, namely :-

Authorities
of
University.

- (a) The Board of Governors;
- (b) The Academic Council;
- (c) The Finance Committee; and
- (d) such other authorities as may be prescribed by the Regulations.

Officers of
University.

9. The following shall be the officers of the University, namely:-

- (a) The President,
- (b) The Director,
- (c) The Deans,
- (d) The Registrar, and
- (e) such other officers as may be prescribed by the Regulations.

Board of
Governors.

10. (1) The Board of Governors of the University shall consist of the following members, namely:-

- (i) The President shall be the Chairman of the Board;
- (ii) Two representatives of the Trust;
- (iii) The Director of the University;
- (iv) Two Deans of the University, by rotation, to be nominated by the Director;
- (v) Secretary to Government (Higher and Technical Education), Education Department, Government of Gujarat;
- (vi) The Commissioner of Higher Education, Education Department, Government of Gujarat;
- (vii) The Director of Technical Education, Education Department, Government of Gujarat;
- (viii) The Director of Health and Medical Services and Medical Education, Health and Family Welfare Department, Government of Gujarat;
- (ix) Two Principals of the colleges of the University by rotation to be nominated by the Director;
- (x) Three experts representing other disciplines such as finance, legal, management, humanities to be nominated by the President;
- (xi) Two representatives of the Industries to be nominated by the President.

(2) The Registrar shall be the Secretary of the Board.

**Chairman
of the
Board.**

11. (1) The Chairman shall preside over at the meetings of the Board and at the convocations of the University.

(2) The Chairman shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Regulations.

12. (1) The Board shall be responsible for the general superintendence, direction and control of the affairs of the University and shall exercise all the powers of the University.

**Powers and
functions of
the Board.**

(2) Without prejudice to the provisions of sub-section(1), the Board shall have the following powers and functions, namely:-

- (i) to take decisions on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make Regulations;
- (iv) to consider and approve the annual report and the annual accounts of the University for every financial year;
- (v) to invest moneys and funds of the University and take decisions on the recommendations of the Finance Committee;
- (vi) to publish or finance the publication of studies, books, periodicals, reports and other literature and to sell or arrange for the sale as it may deem fit from time to time;
- (vii) to create or abolish posts of teachers and other employees of the University;
- (viii) to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act;
- (ix) to delegate by written order, any of its powers to the Director, Dean, Registrar, or any other officer, employee or authority of the University or to a committee appointed by it;
- (x) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by this Act or Regulations;
- (xi) to review the acts of the Academic Council and the Finance committee.

13. (1) Save as otherwise provided in this section, the term of nominated members of the Board shall be three years from the date of nomination.

**Terms of office
and vacancies
among
members of the
Board.**

(2) An *ex-officio* member shall continue so long as he holds the office by virtue of which he is such member.

(3) Any vacancy in the Board occurring before the reconstitution or before the expiry of the prescribed period shall be filled by nomination of another person by the President.

(4) A member nominated under sub-section (3) shall continue for the remainder of the term of a member, in whose place he is nominated.

(5) A member shall be eligible for re-nomination for the next term.

(6) A member may resign his office by writing under his hand, addressed to the President but he shall continue in office until his resignation has been accepted by the President.

Academic Council. 14. (1) The Academic Council of the University shall consist of the following members, namely:-

- (i) the Director of the University, *ex-officio*, who shall be the Chairman of the Academic Council;
- (ii) one eminent academician and one eminent professional to be nominated by the Board;
- (iii) one external eminent academician and one eminent professional to be nominated by the Director;
- (iv) two deans of the University by rotation to be nominated by the Director;
- (v) one Professor from each discipline of the University by rotation to be nominated by the Director; and
- (vi) the Registrar who shall be the non-member Secretary of the Council;

(2) The term of office of the members other than the *ex-officio* member shall be three years.

Powers and duties of Academic Council. 15. The Academic Council shall have the following powers and duties, namely:-

- (i) to exercise control over the academic policies of the University and shall be responsible for the maintenance and improvement of standards of instruction, education and evaluation in the University;
- (ii) to consider matters of general academic interest either on its own initiative or on a reference from the Faculty of the

University or the Board and to take appropriate action thereon;

- (iii) to recommend to the Board such Regulations as are consistent with this Act regarding the academic functioning of the University; and
- (iv) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Regulations.

16. (1) The Finance Committee shall consist of the following members, namely :-

**Finance
Committee.**

- (i) the Director of the University, *ex-officio* shall be the Chairman of the Committee;
- (ii) one member of the Board to be nominated by the President;
- (iii) one Dean of the University by rotation to be nominated by the Director;
- (iv) one expert professional to be nominated by the President; and
- (v) the Registrar shall be the non-member Secretary of the Committee.

(2) The term of office of the members other than the *ex-officio* member shall be three years.

17. The Finance Committee shall exercise the following powers and perform the following functions, namely:-

**Powers and
functions of
Finance
Committee.**

- (i) to examine the annual accounts and annual budget estimates of the University and advise the Board thereon;
- (ii) to review the financial position of the University from time to time;
- (iii) to make recommendations to the Board on all financial policy matters of the University;
- (iv) to make recommendations to the Board on all proposals involving raising of funds, receipts and expenditures;
- (v) to provide guidelines for investment of surplus funds;
- (vi) to make recommendations to the Board on proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget has been incurred;
- (vii) to examine proposals relating to revision of pay scales, upgradation of the scales and all those items which are not included in the budget, before they are placed before the Board; and

- (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Regulations.

18. (1) The Director shall be appointed by the Board, out of the panel of names, recommended from time to time, by the committee consisting of the following members, namely:-

Director.

- (i) an eminent professional to be nominated by the President;
- (ii) an eminent educationist to be nominated by the President; and
- (iii) one member of the Board to be nominated by the President.

(2) The President shall designate one member as the Chairman of the Committee.

(3) The term of office of the Director shall be for the period of five years and shall be eligible for re-appointment to that office for a further term of five years.

(4) Where a vacancy in the office of the Director occurs and it cannot be conveniently and expeditiously filled up in accordance with the provisions of sub-sections (1) and (3) and if there is an emergency, the President, in consultation with the Board may appoint any suitable person to be the Director and may, from time to time extend the term for a period not exceeding one year.

(5) The terms and conditions of the service of the Director shall be such as may be prescribed by the Board and until so prescribed, shall be determined by the president.

Powers and
duties of
Director.

19. (1) The Director shall be the Chief Executive and Academic Officer of the University. He shall preside over at the meetings of the Academic Council and Finance Committee.

(2) Without prejudice to the generality of the provision contained in sub-section (1), the Director shall -

- (i) exercise general superintendence and control over the affairs of the University;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instruction and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him under this Act or the Regulations or as may be delegated to him by the Board or by the President, as the case may be.

(3) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the Chairman or Authority or body of the University empowered under this Act to deal with it, the Director may take such action as he may deem fit and shall forthwith report the action taken by him to the Chairman or authority or body of the University who or which, in the ordinary course, would have dealt with the matter.

(4) Where the exercise of the power by the Director under sub-section (3) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment, in accordance with the provisions of this Act and the Regulations, not later than three months from the date of order of the Director, otherwise the same shall cease to have effect on the expiration of a period of three months from the date of order of the Director.

20. (1) The Registrar shall be appointed by the University in such **Registrar.** manner and on such terms and conditions as may be prescribed by the Regulations.

(2) The Registrar shall exercise the following powers and perform following duties, namely:-

- (i) He shall be responsible for the custody of records, common seal, the funds of the University and such other property of the University;
- (ii) He shall place before the Board and other authorities of the University, all such information as may be necessary for transaction of its business;
- (iii) He shall be responsible to the Director for the proper discharge of his functions;
- (iv) He shall, subject to the control of the Director, be responsible for the administration and services of the University;
- (v) He shall attest and execute all documents on behalf of the University;
- (vi) In all suits and other legal proceedings by or against the University, the pleadings shall be verified and signed by the Registrar and all processes in such suits and proceedings shall be issued to and served on, the Registrar;
- (vii) He shall exercise such other powers and perform such other duties as may be assigned to him under this Act, the Regulations or as may be delegated to him by the Board or the Director.

21. (1) The Deans of the University shall be appointed by **The Deans.** the Director, with the approval of the Chairman of the Board, from amongst the faculty members of the University.

(2) The Dean shall assist the Director in managing the academic and other affairs of the University and shall exercise such powers and perform such functions as may be prescribed by the Regulations or to be delegated to them by the Director.

CHAPTER IV FUNDS, ACCOUNTS AND AUDIT

**Permanent
Endowment
Fund of the
University.**

22. The Trust shall place funds at the disposal of the University to be called the Permanent Endowment Fund of a sum of ten crores of rupees or as such required for meeting the full operational expenditure of the University for three years, in long term interest bearing securities issued or guaranteed by the Central or State Government. On the termination of the involvement of the Trust and after meeting the operational expenditure for three years out of the permanent Endowment Fund, if there is any unused balance that shall be paid back to the Trust, with the previous permission of the State Government.

**Payment to
University.**

23. The Trust shall pay to the University from time to time such sums of money and in such manner as may be considered necessary for the exercise of its powers and discharge of its functions under this Act.

**Funds of
University.**

24. (1) The University shall have its own funds consisting of –

- (i) all moneys provided by the trust;
- (ii) all fees and other charges received by the University;
- (iii) all moneys received by the University by way of grants, loans, gifts, donations, benefactions, bequests or transfers;
- (iv) all moneys received by the University from the collaborating Industry in terms of the provisions of the Memorandum of Understanding between the University and the Industry for establishment of sponsored chairs, fellowships and infrastructure facilities of the University, under the intimation to the State Government.

(2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on recommendation of the Finance Committee.

(3) The funds of the University shall be applied towards the expense of the University including expenses incurred in the exercise of its powers and discharge of its function.

**Accounts
and Audit.**

25. (1) The University shall maintain proper accounts and other records and prepare an annual statement of accounts, including the income and expenditure account and the balance sheet, in such form and in such manner as may be prescribed by the Regulations.

(2) The University shall adopt a proper system of internal checks and balances and controls in the discharge of its finance, accounting and auditing functions as may be prescribed by the Regulations.

XXVII of 1949.

(3) The Accounts of the University shall be audited every year by an auditor who shall be a Chartered Accountant or a firm of Chartered Accountants as defined in the Chartered Accountant Act, 1949 who shall be appointed by the Board.

(4) The Accounts of the University certified by the person or firm so appointed or any other person authorized in this behalf together with the audit report thereon shall be placed before the Board and the Board may issue such instructions to the University in respect thereof as it deems fit and the University shall comply with such instructions.

(5) The Accounts of the University shall be audited by an internal auditor who shall be a Chartered Accountant or a firm of Chartered Accounts appointed by the Board, to ensure concurrent audit of all books of accounts, and such periodic internal audit reports shall be placed before the Board for review.

(6) The University shall prepare each year a report of its activities during the previous year and submit it in the form of an annual report to the Board for review and approval.

26. (1) The exiting terms and conditions of the service, including Pension, scheme of pension, provident fund and insurance of the officers, teachers, Provident and other employees of the concerned institutions run by the Mehsana Funds and District Education Foundation shall continue in such manner and subject to Insurance. such conditions, even after the commencement of this Act, till new Regulations are made in this regard.

XIX of 1925.

(2) Where any such provident fund has been so constituted, the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

CHAPTER V SUPPLEMENTARY PROVISIONS

27. No act or proceeding of the Board, or any authority of the University or any committee constituted under this Act or by the Regulations shall be questioned on the ground merely of the existence of any vacancy in or defect in the constitution of, the Board, Authority or Committee of the University. Acts and proceedings not to be invalidated by vacancies

28. Notwithstanding anything contained in any other law for the time being in force, the University shall have powers to confer degrees honorary degrees, diplomas and other academic distinctions, titles and grant certificates as approved by the Board. Conferment of degrees, diplomas and grant of certificate by the University.

29. The University shall furnish to the State Government, University Grants Commission and other statutory authorities such reports, returns, statements and other information as may be required by them from time to time.

Returns and information.

Management of University on dissolution of Foundation.

30. The Foundation shall give a notice of not less than four years period to the State Government of its intention to dissolve the Foundation. The State Government may direct the University to cease fresh admissions and also direct the Foundation to phase out the responsibility of running the University until the last batches of students in regular courses of the University complete their courses. It shall be obligatory on the part of the Foundation not to compromise in terms of the quality of education and training in the interim years and provide reasonable exit benefits for the employees.

Officers and employees to be public servants.

31. Every officer, teacher and other employees of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Explanation.- For the purposes of this section, any person, who is appointed by the University for a specified period or a specified work of the University or, who receives any remuneration by way of compensatory allowance or fee for any work done from the University Fund, shall be deemed to an officer or employee of the University while he is performing and in relation to all matters relatable to the performance of the duties and functions connected with such appointment of work.

Dismissal, removal, reduction and termination of service of staff of University.

32. No member of the teaching, non-teaching and other academic staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. An appeal from an order of dismissal, removal or reduction or of termination shall lie to the President within ninety days from the date of communication of such order and the decision of the President in such appeal shall be final.

CHAPTER VI MISCELLANEOUS PROVISIONS

Powers of State Government.

33. The State Government shall have powers to issue directions from time to time as may be required to be followed by the University under the provisions of this Act, the Regulations made thereunder and under any other law for the time being in force.

Regulations.

34. (1) Subject to the provisions of this Act, the Board shall have, in addition to all other powers vested in it, the power to make Regulations to provide for the administration and management of the affairs of the University.

(2) In particular and without prejudice to the generality of the foregoing powers, such Regulations may provide for all or any of the following matters, namely :-

- (i) the summoning and holding of meetings of the authorities of the University other than the first meeting of the Board, and the quorum and conduct of business at such meeting;
- (ii) the powers and functions to be exercised and discharged by the President of the Board of the University;
- (iii) the constitution, powers and duties of the authorities, bodies and other committees of the University established under this Act, the qualifications and disqualifications for membership of such authorities, term of office of the membership, appointment and removal of members thereof and other matters connected therewith;
- (iv) the procedure to be followed by the Board and any committee or other body constituted under this Act or by the Regulations in the conduct of the business, exercise of the powers and discharge of the functions;
- (v) the procedure and criteria to be followed in establishing courses of study and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the degrees, diplomas, certificates and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degrees, diplomas, certificates and other academic distinctions and titles and the requirements thereof;
- (ix) the conduct of examinations including appointment of examiners;
- (x) the creation of posts of Professors, Associate Professors, Assistant Professors, Readers, Lecturers or equivalent academic designations or posts, officers and employees of the University and the appointment of persons to such posts including the qualifications requisite therefor;
- (xi) the fees and other charges which may be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the manner and conditions for constitution of pension, provident funds, insurance and such other schemes for the benefit of officers, teachers and other employees of the University;
- (xiii) the terms and conditions applicable for association of the University with other institutions;
- (xiv) the preparation of budget estimates and maintenance of accounts;
- (xv) the mode of execution of contracts or agreement by or on behalf of the University;

- (xvi) the classification and procedure for appointment of officers and staff of the University;
- (xvii) the terms and tenure of appointments, salaries and allowances, contractual services, rules of discipline and other conditions of service of the Director, other officers, teachers and employees of the University;
- (xviii) the terms and conditions governing deputation of officers and staff of the university;
- (xix) the powers and duties of the Director and other officers, teachers and employees of the University;
- (xx) the terms and conditions governing fellowship, scholarships, stipends, medals and prizes;
- (xxi) the authentication of the orders and decisions of the Board;
- (xxii) the matters relating to hostels and halls of residence including disciplinary control therein, and
- (xxiii) all matters which, by this Act, are to be or may be prescribed by the Regulations.

Indemnity.

35. No suit, prosecution or other legal proceedings shall lie against and no damages shall be claimed from the University, the Director, the authorities or officers of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or any Regulation made thereunder.

CHAPTER VII TRANSITORY PROVISIONS

Transitory provisions.

36. Notwithstanding anything contained in this Act,-

- (i) the existing Hon. Director of the Foundation holding the office at the time of commencement of this Act, shall be deemed to have been appointed as the first Director. The Director, subject to availability of funds, discharge all or any of the functions of the University for the purpose of carrying out the provisions of this Act and the Regulations and for that purpose may exercise any power or perform any duty which by this Act and the Regulations are to be exercised or performed by any authority of the University until such authority comes into existence as provided by this Act and the Regulations;
- (ii) the Board functioning as such immediately before the commencement of this Act shall continue to so function until the Board is constituted for the University under this Act, but on the constitution of the Board under this Act, the members of the Board holding office before such constitution shall cease to hold office;
- (iii) the Academic Council functioning as such immediately before the commencement of this Act shall continue to so function

- until the Academic Council is constituted for the University under this Act, but on the constitution of the Academic Council under this Act, the members of the Academic Council holding office before such constitution shall cease to hold office;
- (iv) the Finance Committee functioning as such immediately before the commencement of this Act shall continue to so function until the Finance Committee is constituted for the University under this Act, but on the constitution of the Finance Committee under this Act, the member of the Finance Committee holding office before such constitution shall cease to hold office;
- (v) until the first Regulations of the University are made under this Act, the existing rules and regulations of the Mehsana District Education Foundation, Ganpat Vidyanagar, Kherva, Mehsana as approved by the Board as in force immediately before the commencement of this Act, shall continue to apply to the University in so far as they are not inconsistent with the provisions of this Act.

37. Notwithstanding anything contained in this Act or Regulations made thereunder, any student of the Institutions, named (1) S.K. Patel College of Pharmacy Education and Research (2) U.V. Patel College of Engineering (3) V.N.Patel College of Management Studies (4) V.M.Patel Institute of Management (5) Acharya Motibhai Patel Institute of Computer Studies situated within the University area and affiliated to the Hemchandracharya North Gujarat University, was studying or was eligible for any examination of the Hemchandracharya North Gujarat University, shall be permitted to complete his course in preparation therefor, and the University shall provide for such period and in such manner as may be prescribed for the instruction, teaching, training and examination of such students, in accordance with the courses of studies of the Hemchandracharya North Gujarat University.

Completion of courses of students in colleges affiliated to the Hemchandracharya North Gujarat University.

38. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette* make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Removal of difficulties at the commencement.

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of the Act.

EXTRA NO. 20



REGISTERED No. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] WEDNESDAY, MARCH 23, 2005/CAITRA 2, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - IV

Acts of Gujarat Legislature and ordinances Promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 23rd March, 2005 is hereby published for general information:-

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department,

GUJARAT ACT NO. 20 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd March, 2005).

AN ACT

further to amend the Gujarat Entertainments Tax Act, 1977.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :--

1. (1) This Act may be called the Gujarat Entertainments Tax (Amendment) Act, 2005.

Short title and commencement.

(2) It shall come into force on the 1st April, 2005.

Amendment of
section 3 of Guj. 16
of 1977.

2. In the Gujarat Entertainments Tax Act, 1977 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (1), in clause (a), after sub-clause (ii), the following proviso shall be inserted, namely :-

"Provided that the payment for admission to an entertainment shall not be less than rupees ten per person."

Guj. 16 of
1977.

Amendment of
section 6 of Guj. 16
of 1977.

3. In the principal Act, in section 6,-
(i) to sub-section (3), the following proviso shall be inserted, namely :-

"Provided that the payment for admission to an entertainment shall not be less than rupees five per person,";

- (ii) in the Explanation, for the proviso to clause (i), the following proviso shall be substituted, namely :-

"Provided that where a specified area is within the radius of five kilometers from any other local area, the population of which is more than the specified area, such specified area shall be deemed to be within the category of the local area with larger population."



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S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 21 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd March, 2005).

AN ACT

to consolidate and amend the law relating to Civil Courts in the State of Gujarat.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Civil Courts Act, 2005.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title, extent
and
commencement.

Definitions. 2. In this Act unless the context otherwise requires,-

- (a) "appointed date" means the date appointed under sub-section (3) of section 1;
- (b) "civil court" means a court of a District Judge, a court of the Senior Civil Judge or a court of Civil Judge;
- (c) "Code" means the Code of Civil Procedure, 1908; 5 of 1908.
- (d) "district" means a revenue district or such local area as the State Government may, from time to time, notify to be a district for the purposes of this Act;
- (e) "Government" means the Government of Gujarat;
- (f) "High Court" means the High Court of Gujarat;
- (g) "judicial officer" means a Judge of a court of District Judge, a Judge of a court of Senior Civil Judge or a Judge of a court of Civil Judge;
- (h) "notification" means a notification published in the *Official Gazette*;
- (i) "*Official Gazette*" means Gujarat Government Gazette;
- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "service" means the judicial service of the State.

CHAPTER II ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS

Classes of civil courts.

3. In addition to the courts established under any other law for the time being in force, there shall be following classes of civil courts in the State, namely :-

- (a) court of a District Judge;
- (b) court of a Senior Civil Judge;
- (c) court of a Civil Judge.

Establishment of courts of District Judges.

4. (1) There shall be established by the State Government, in consultation with the High Court, by notification, in each district, a court of a District Judge.

(2) Each court of a District Judge shall be presided over by a Judge to be called the Principal District Judge.

(3) (i) When the business pending before a court of a District Judge so requires, the State Government may, in consultation with the High Court, appoint to that court one or more judges to be called as Additional District Judges, for such period as it deems necessary.

(ii) The Additional District Judge appointed under this subsection shall, subject to the general or special orders of the High Court, discharge all or any of the functions of a District Judge under this Act or any other law for the time being in force which the Principal District Judge may assign to him and in the discharge of those functions, he shall exercise all the powers of the court of a District Judge.

5. (1) There shall be established by the State Government, in consultation with the High Court, by notification, in each district, a court of Senior Civil Judge :

**Establishment
of courts of
Senior Civil
Judges.**

Provided that the State Government may, in consultation with the High Court establish a court of a Senior Civil Judge for a part of a district and specify the local limits of its jurisdiction.

(2) Each court of a Senior Civil Judge shall be presided over by a judge to be called as Principal Senior Civil Judge.

(3) (i) When the business pending before a court of a Senior Civil Judge so requires, the Government may, in consultation with the High Court, fix by notification, the number of judges to be called as Additional Senior Civil Judges, for such period as it deems necessary.

(ii) An Additional Senior Civil Judge so appointed shall, subject to the general or special orders of the Principal District Judge, discharge all functions of a Senior Civil Judge under this Act or any other law for the time being in force which the Principal Senior Civil Judge may assign to him and in the discharge of those functions he shall exercise all the powers of Senior Civil Judge .

6. (1) There shall be established by the State Government, by notification, in each district such number of courts of Civil Judges as may be fixed by the State Government in consultation with the High Court and specify the local limits of jurisdiction of each such court.

**Establishment
of courts of
Civil Judges.**

(2) Each court of a Civil Judge shall be presided over by a Judge to be called as Principal Civil Judge.

(3) (i) When the business pending before a court of Civil Judge so requires, the State Government may, in consultation with the High Court, appoint to that court one or more Judges to be called as Additional Civil Judges for such period as it deems necessary.

(ii) An Additional Civil Judge so appointed shall, subject to the general or special orders of the Principal District Judge, discharge all the functions of a Civil Judge under this Act or any other law for the time being in force which the Principal Civil Judge may assign to him and in the discharge of those functions he shall exercise all the powers of a Civil Judge.

**Location of
civil court.**

7. (1) The place or places, at which every civil court under this Act shall be held, shall be fixed, and may from time to time, be altered by the State Government, in consultation with the High Court.

(2) The place or places so fixed for a civil court under sub-section (1) may be within or outside the local limits of the jurisdiction of that court.

**Seal of a
civil court.**

8. Every civil court under this Act shall use a seal which shall bear thereon the State Emblem and shall be, in such form, of such dimensions and with the name of the court in such language or languages, as the High Court may, in consultation with the State Government, by order, determine.

**Existing courts,
their location
and seals to be
deemed to be
established,
fixed and
determined
under this Act.**

9. (1) The Courts of District Judges, existing immediately prior to the appointed date, shall, with effect from the appointed date, be deemed to be Courts of District Judges established under this Act.

(2) The Courts of Civil Judge (Senior Division), existing immediately prior to the appointed date shall, with effect from the appointed date, be deemed to be Courts of Senior Civil Judges established under this Act.

(3) The Courts of Civil Judge (Junior Division) existing immediately prior to the appointed date shall, with effect from the appointed date, be deemed to be Courts of Civil Judges established under this Act.

(4) The place at which a civil court deemed to be established under sub-sections (1) to (3) is being held immediately prior to the appointed date shall be deemed to be the place fixed under said sub-section (1) of section 7.

(5) The seal in use, in a civil court deemed to be determined under sub-sections (1) to (3), immediately prior to the appointed date may continue to be used until an order is made by the High Court under section 8.

10. (1) No person other than a person belonging to the cadre of District Judge in the judicial service of the State of Gujarat shall be eligible to be posted as a Principal District Judge or as an Additional District Judge.

Posting of
District Judges,
Senior Civil
Judges and
Civil Judges.

(2) No person other than a person belonging to the cadre of Senior Civil Judge in the judicial service of the State of Gujarat shall be eligible to be posted as a Principal Senior Civil Judge or as an Additional Senior Civil Judge.

(3) No person other than a person belonging to the cadre of Civil Judge in the judicial service of the State of Gujarat shall be eligible to be posted as a Principal Civil Judge or as an Additional Civil Judge.

CHAPTER III JURISDICTION OF CIVIL COURTS

11. (1) The State Government may, in consultation with the High Court, by notification, fix and vary, from time to time, the local limits of jurisdiction of any civil court under this Act.

Local limits of
jurisdiction.

(2) The local limits of jurisdiction of a civil court, existing immediately prior to the appointed date, shall be deemed to be the local limits of jurisdiction of that court.

12. (1) A Court of District Judge shall be the principal civil court of original jurisdiction within the local limits of its jurisdiction.

Jurisdiction of
a court of
District Judge.

(2) Subject to the provisions of the Code, the jurisdiction of a court of District Judge shall extend to all original suits and proceedings of a civil nature.

(3) A Court of District Judge shall, subject to the general control of the High Court, have control over all other civil courts within the local limits of its jurisdiction.

13. The jurisdiction of the court of a Senior Civil Judge shall extend to all original suits and proceedings of a civil nature, subject to such rules as the High Court may, from time to time make in this behalf.

Jurisdiction
of a court of
Senior Civil
Judge.

14. The jurisdiction of a Court of Civil Judge shall extend to all original suits and proceedings of a civil nature, not otherwise excluded from the jurisdiction of a Court of Civil Judge by any other law, the value of the subject matter of which does not exceed two lakh rupees or such other sum as the High Court may, from time to time specify.

Jurisdiction
of a court of
Civil Judge.

Appeals.

15. (1) Appeals from the decrees and orders passed by a Court of District Judge in original suits and proceedings of civil nature shall, when such appeals are allowed by law, lie to the High Court.

(2) Appeals from the decrees and orders passed by a Court of Senior Civil Judge in original suits and proceedings of civil nature shall, when such appeals are allowed by law, lie -

(a) to the Court of the District Judge of the district when the amount or value of the subject matter of the original suit or proceedings is less than five lakhs of rupees or such other sum as the High Court may, from time to time, specify;

(b) to the High Court in other cases.

(3) Appeals from the decrees and orders passed by a Court of Civil Judge in suits or proceedings of a civil nature, shall, when such appeals are allowed by law, lie to the Court of District Judge of the district :

Provided that the High Court may, in consultation with the State Government, by notification, direct that such appeals against decrees and orders may lie to the Court of Senior Civil Judge when the amount or value of the subject matter of the suit or proceeding is less than one lakh of rupees and thereupon appeals shall be preferred accordingly.

(4) The provisions of this section will apply to all decrees and orders made after the appointed date irrespective of the fact whether the suits or proceedings in which they are made were instituted before or after the appointed date.

Power to require witness or party to make oath or affirmation.

16. Every civil court under this Act shall require a witness or party to any suit or other proceedings pending in such court to make such oath or affirmation as is prescribed by the law for the time being in force.

Investment of small cause powers to courts of Senior Civil Judges or Civil Judges.

17. (1) The High Court may, by notification, invest, with such restrictions as it shall from time to time determine, any Court of Senior Civil Judge or a Court of Civil Judge, with the jurisdiction for the trial of suits cognizable by a Court of Small Causes established under the Provincial Small Cause Courts Act, 1887 upto such amount as it may deem proper.

(2) The High Court may, by notification withdraw or alter whenever it thinks fit such jurisdiction of any Court of Senior Civil Judge or Civil judge, so invested.

9 of 1887.

(3) (a) The provisions of the Provincial Small Cause Courts Act, 1887 applicable to Courts of Small Causes, shall apply to a court invested under sub-section (1) with the jurisdiction of a Court of Small Causes, so far as the exercise of that jurisdiction by those courts.

(b) Nothing in sub-clause (a) shall, with respect to the courts invested with the jurisdiction of a court of Small Causes, apply to suits instituted or proceedings commenced in those courts prior to the date on which they were invested with that jurisdiction.

(4) A court invested with the jurisdiction of a Court of Small Causes under sub-section (1) with respect to the exercise of that jurisdiction and the same court with respect to the exercise of its jurisdiction in suits of civil nature which are not cognizable by a Court of Small Causes shall, for the purposes of this Act and the Code be deemed to be different courts.

(5) Notwithstanding anything contained in this Act –

(a) when in the exercise of the jurisdiction of a Court of Small Causes, a court invested with that jurisdiction sends a decree for execution to itself as a court having jurisdiction in suits of a civil nature, which are not cognizable by a Court of Small Causes, or

(b) when a court in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes sends a decree for execution to itself as a court invested with the jurisdiction of a Court of Small Causes,

the documents mentioned in rule 6 of Order XXI of the Code shall not be sent with the decree unless in any case the court, by order in writing requires them to be sent.

18. (1) No judicial officer shall try any suit in which he is a party or personally interested or shall adjudicate upon any proceedings connected with or arising out of such suit.

Judges not to try suits in which they are interested, etc.

(2) No judicial officer shall try any appeal against any decree or order passed by himself in any other capacity.

(3) When any such suit, proceedings or appeal referred to in sub-sections (1) and (2) comes before any such judicial officer, he shall report the circumstances to the court to which he is immediately subordinate. The said superior court shall thereupon dispose of the case in the manner prescribed by section 24 of the Code.

- Application of the Code.** 19. The procedure prescribed in the Code shall, save in so far as is otherwise provided by this Act, be followed in all civil courts.

CHAPTER IV MISCELLANEOUS

- Temporary vacancy of office of Principal District Judge.** 20. In the event of the death of the Principal District Judge or of his being prevented from performing his duties by illness or otherwise or of his absence on leave from the station in which his court is held, the Additional District Judge of the district and if there are more than one Additional District Judges, the senior most among them and if there is no Additional District Judge in the district, the senior most Senior Civil Judge in the district, shall, without interruption to his ordinary duties assume charge of the office of the Court of Principal District Judge and while so in charge perform the duties of the Principal District Judge with respect to the filing of the suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall continue in charge of the said court until the same is resumed by a judge duly posted thereto.

- Temporary vacancy of office of Principal Senior Civil Judge or Principal Civil Judge.** 21. In the event of death, suspension or temporary absence of any Principal Senior Civil Judge or Principal Civil Judge, the Principal District Judge may empower any Senior Civil Judge or Civil Judge in the district to perform such duties of such Principal Senior Civil Judge or Principal Civil Judge, as the case may be, as specified in section 20 either at the place of such court or of his own court, but in every such case the registers and records of the two courts shall be kept distinct.

- Vacation and holidays.** 22. (1) The civil courts in the State shall be closed on such days as may be notified by the High Court as public holidays for the whole State or for such area in the State.

(2) The civil courts in the State shall have such number of vacations in each year as the High Court may declare but the total number of days of such vacations shall not exceed thirty days.

(3) Notwithstanding anything contained in this Act or in the Code, the High Court, may, by general or special order appoint the Principal District Judge or an Additional District Judge or a Senior Civil Judge as vacation judge for the District and for the duration of the adjournment of the court of Principal District Judge in any vacation or any part thereof and regulate the work to be discharged by the vacation judge.

(4) The local limits of jurisdiction of the vacation judge shall be the same as those of the Court of Principal District Judge concerned and his jurisdiction shall extend to all suits, appeals and other proceedings pending in or cognizable by any civil court in the district concerned.

(5) The vacation judge shall hold his court at the place at which court of Principal District Judge is normally held and he shall have administrative control over all the staff of all civil courts in the district.

36 of 1963.

(6) Notwithstanding the appointment of a vacation judge every civil court in the district shall, during the period it is adjourned for any vacation, be deemed to be closed for the purpose of section 4 of the Limitation Act, 1963.

(7) On the reopening of any civil court after any vacation all suits, appeals and other proceedings pending before the vacation judge shall stand transferred to the civil court concerned in which it would have been instituted or pending but for the appointment of the vacation judge any decree, order or proceedings passed by the vacation judge shall be deemed to be a decree, order or proceeding passed by the court concerned.

23. (1) Subject to the other provisions of this Act and the rules and any other law for the time being in force, all civil courts in a district including the staff thereof shall, subject to the control of the High Court, be subordinate to the Court of District Judge.

**Subordination
of civil courts.**

(2) The civil courts shall maintain such forms, books of accounts, records, registers and the like as may be specified by the High Court in consultation with the State Government.

(3) The State Government may, for discharging its functions and responsibilities, require, through the High Court, the civil courts to furnish to the Government such particulars and information relating to the working of the courts and other matters as may be called for from time to time.

24. (1) The High Court may by general or special order invest any Senior Civil Judge, within such local limits and subject to such pecuniary limitation as may be specified in such order, with all or any of the powers of a District Judge or a Court of District Judge, as the case may be, under the Divorce Act, 1869, the Succession Act, 1925, the Special Marriage Act, 1954, or the Guardians and Wards Act, 1890.

**Power to
invest Senior
Civil Judges
with
jurisdiction
under certain
Acts.**

4 of 1869.
39 of 1925.
43 of 1954.
8 of 1890.

(2) Every order made by a Senior Civil Judge by virtue of the powers conferred upon him under sub-section (1) shall be subject to an appeal to the High Court where the amount or value of the subject matter exceeds rupees five lakhs or to the Court of District Judge where the amount or value of the subject matter does not exceed rupees five lakhs.

(3) Every order of a Court of District Judge passed on appeal under sub-section (2) from the order of a Senior Civil Judge shall be subject to an

appeal to the High Court under the rules contained in the Code applicable to appeals from appellate decrees.

Fees for process.

25. The High Court shall from time to time, with the sanction of the State Government, prescribe and regulate by rules, the fees to be taken for any process issued by any civil court. Such rules may provide for payment of process fee in a lump sum in advance alongwith the plaint.

Mode of conferring powers.

26. Except as otherwise provided any powers that may be conferred by the High Court on any person under this Act may be conferred on such person either by name or by virtue of office.

Government suits.

27. (1) No subordinate court other than the court of a Senior Civil Judge and no Court of Small Cause shall receive or register any suit in which the Government or any officer of the Government in his official capacity is a party.

(2) In every such case, the plaintiff shall be referred to the court of the Senior Civil Judge. Such suit shall be instituted only in the court of the Senior Civil Judge and shall be heard by such Senior Civil Judge subject to the provisions of section 24 of the Code.

Constitution of consultative committee.

28. The High Court shall constitute a consultative committee for each district, consisting of such number of members and in such manner as may be prescribed, for making suggestions for the infrastructural facilities in the courts, improvement of work culture, co-ordination between the bar, bench and other authorities and for the matter incidental thereto.

Power of High Court to make rules.

29. (1) The High Court may, after previous publication, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-

- (a) the manner in which the proceedings of each civil court shall be kept and recorded;
- (b) regulating the grant of certified copies of papers in civil court;
- (c) regulating the duties and functions of the ministerial officers of the civil courts;
- (d) regulating the issue of licenses by the Principal District Judge of the district to persons to act as petition writers in civil courts in that district and the conduct of business by them and the scale of fees to be charged by them;
- (e) providing a penalty of such amount not exceeding five hundred rupees for breach of the rules made under clause (d) and the

- authority who could investigate the breach of rules and impose the penalty;
- (f) forms, books, registers, records and accounts to be maintained by the civil courts;
 - (g) payment of process fees in lump sum in advance alongwith the plaint or otherwise;
 - (h) the manner in which a consultative committee may be constituted for each district;
 - (i) any other matter, not inconsistent with the provisions of this Act which, in the opinion of the High Court, may be prescribed for the effective enforcement of the Act.

Bom. XIV of 1869.

30. (1) On and from the appointed date the Bombay Civil Courts Act, 1869, in its application to the State of Gujarat, shall stand repealed.

Repeal and savings.

(2) Such repeal shall not affect the previous operation of the enactment so repealed and any thing done or any action taken including the districts formed, limits defined, courts established or constituted, appointments, rules or orders made, functions assigned, powers granted, seals or forms prescribed, jurisdiction defined or vested and notifications or notices issued by or under the provisions of the said Act and deemed to have been done or taken under the provisions thereof shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(3) Notwithstanding anything contained in sub-section (1) or any other provisions of this Act or in the enactment repealed by sub-section (1) or in any other law or provision having the force of law, all suits, appeals and proceedings connected therewith, pending before any court, which under this Act have to be instituted or commenced in another court, shall, on the appointed day, stand transferred to such other court and shall be continued and disposed of by such other court in accordance with law as if such suit and proceedings had been instituted or commenced in such other court under this Act.

(4) If there be any doubt as to which court any suit, appeal or proceedings shall stand transferred or as to which court any appeal shall be preferred in accordance with the provisions of this Act the court designated by the High Court shall be the court to which such suit, appeal or proceedings shall be transferred or such appeal shall be preferred, and the decision of the High Court shall be final.

Bom. I of 1904.

(5) Notwithstanding such repeal, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal of

the Bombay Civil Courts Act, 1869 as if the Act had been an enactment within the meaning of the said section 7.

Bom. XIV of
1869.

Power to
remove
difficulties.

31. (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of any enactment or law in force immediately before the commencement of this Act, the State Government in consultation with the High Court may by notification, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) No such notification shall be issued after expiry of two years from the date of commencement of this Act.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLVI]

WEDNESDAY MARCH 23, 2005/CAITRA 2, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and regulations made by the Governor.

The following Act of the Gujarat Legislature, having been
assented to by the Governor on the 23rd March, 2005 is hereby
published for general information.

S.S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 22 OF 2005.

(First published, after having received the assent of the Governor
in the "Gujarat Government Gazette", on the 23rd March, 2005).

AN ACT

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Fifty-sixth Year of the Republic of
India as follows :-

1. (1) This Act may be called the Bombay Electricity Duty (Gujarat
Amendment) Act, 2005.

Short title and
commencement.

(2) It shall come into force on the 1st April, 2005.

Amendment of
Schedule I to
Bom. XL of
1958.

2. In the Bombay Electricity Duty Act, 1958 (hereinafter referred to
as "the Principal Act"), in Schedule I, in Part I, -

Bom. XL of
1958.

(1) in item (1), the words "or educational purposes" and the
Explanation thereunder shall be deleted;

14-Ex-22-1

22-1

- (2) after item (1), the following items shall be inserted, namely :-

1	2
“(1A) For energy consumed by a consumer in respect of premises used for educational purposes –	
(a) in rural areas	15 per cent. of consumption charges.
(b) in urban areas -	
(i) where the total consumption per month does not exceed 40 units	20 per cent. of consumption charges.
(ii) where the total consumption per month exceeds 40 units.	35 per cent. of consumption charges.

Explanation.— “Educational purpose” means the purpose of imparting education by an approved school as defined in clause (2) of section 2 of the Bombay Primary Education Act, 1947, a recognised school or a registered school as defined in clause (q) or, as the case may be, clause (s) of section 2 of the Gujarat Secondary Education Act, 1972, or a University established by any law for the time being in force in the State, or a College affiliated to, or an institution recognised or approved by each University.

Bom. LXI of 1947.

Guj. 18 of 1972.

- (1B) For energy consumption by Hostel for students. 15 per cent. of consumption charges.”;
- (3) in item (2), in column 2, for the figures and words “30 per cent.”, the figures and words “15 per cent.” shall be substituted;
- (4) in item (3), in column 2, for the figures and words “45 per cent.”, the figures and words “35 per cent.” shall be substituted;
- (5) in item (4), in sub-item (b), in column 2, for the figures and words “45 per cent.”, the figures and words “35 per cent.” shall be substituted;
- (6) in item (5), in sub-item (a), in column 2, for the figures and words “20 per cent.”, the figures and words “15 per cent.” shall be substituted;
- (7) in item (7), in column 2, for the figures and words “45 per cent.”, the figures and words “35 per cent.” shall be substituted.

Amendment of
Schedule II to
Bom. XL of 1958.

3. In the principal Act, in Schedule II, in Part I, in item (7), in column 2, for the figures and words “70 paise per unit”, the figures and words “40 paise per unit” shall be substituted.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] WEDNESDAY, MARCH 23, 2005/CAITRA 2, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 23rd March, 2005 is hereby published for general information.:-

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department,

GUJARAT ACT NO. 23 OF 2005.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd March, 2005.

AN ACT

further to amend the laws relating to salaries and allowances of Members, Speaker and Deputy Speaker of the Gujarat Legislative Assembly, Ministers and Leader of the Opposition.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :--

1. (1) This Act may be called the Gujarat Salaries and Allowances of Members, Speaker and Deputy Speaker of the Gujarat Legislative Assembly, Ministers and Leader of the Opposition Laws (Amendment) Act, 2005.

Short title and commencement.

(2) It shall come into force on the 1st April, 2005.

2. The enactments specified in column 2 of the Schedule shall be amended to the extent and in the manner specified in column 3 of the said Schedule.

Amendment of certain enactments.

SCHEDULE

(See section 2)

No.	Name of the enactment.	Extent of amendments.
1	2	3
1.	<p>The Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960 (Guj.II of 1960).</p> <p>Salaries to be paid to Members and consolidated allowance.</p>	<p>1. For section 3, the following section shall be substituted, namely:-</p> <p>"3. (1) There shall be paid to each Member during the whole of his term of office, a salary per month at the rate of minimum basic pay payable to a Class I officer in the lower rung of the State Government.</p> <p>(2) There shall be paid to each Member during the whole of his term of office per month, the consolidated allowance on the aggregate amount of the pay, cost of telephone charges, services of personal assistant and postal and stationery charges referred to in sub-section (1) of this section, sub-section (2) of section 6A and sub-sections (2) and (5A) of section 8 respectively, at the rate of dearness allowance applicable to the employees of the State Government.</p> <p><i>Explanation.-</i> For the purpose of this sub-section, 'dearness allowance' means the dearness allowance as may be increased by the State Government from time to time after the 1st April, 2005 but does not include dearness allowance already declared prior to the said date."</p> <p>2. In section 4, in clauses (a) and (b), for the figures "150", the figures "200" shall be substituted.</p> <p>3. In section 6A, in sub-section (2), for the figures "3,000", the figures "4,000" shall be substituted.</p>

4. In section 8,--

(1) in sub-section (2), for the figures "2,400", the figures "3,000" shall be substituted;

(2) in sub-section (5A), for the figures "1,600", the figures "3,000" shall be substituted.

2. The Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960 (Guj.III of 1960).

1. In section 3, -

(1) for the figures "4,500", the figures "10,000" shall be substituted;

(2) the following proviso shall be added, namely :-

"Provided that where the salary of the Members of the Assembly increases by virtue of the provisions of sub-section (1) of section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960, the salary to be paid to the Speaker shall be increased in proportion to the increase in the salary of the Member of the Assembly."

Guj. II of 1960.

2. In section 3A, for the figures "3,500", the figures "7,000" shall be substituted.

3. After section 3A, the following new section shall be inserted, namely :-

Dearness allowance to Speaker. "3B. There shall be paid to the Speaker during the whole of his term of office per month the dearness allowance on the aggregate amount of the salary, consolidated allowance and the conveyance allowance referred to in sections 3, 3A and sub-section (2) of section 5 respectively, at the rate of dearness allowance applicable to the employees of the State Government.

Explanation.- For the purpose of this section, 'dearness allowance' means the dearness allowance as may be increased by the State Government from time to time after the 1st April, 2005 but does not include dearness allowance already declared prior to the said date."

4. In section 5, in sub-section (2), for the figures "3,000", the figures "4,000" shall be substituted.

5. In section 10,-

(1) for the figures "4,500", the figures "10,000" shall be substituted;

(2) the following proviso shall be added, namely :-

Guj. II of 1960.

"Provided that where the salary of the Members of the Assembly increases by virtue of the provisions of sub-section (1) of section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960, the salary to be paid to the Deputy Speaker shall be increased in proportion to the increase in the salary of the Member of the Assembly."

6. In section 10A, for the figures "3,500", the figures "7,000" shall be substituted.

7. After section 10A, the following new section shall be inserted, namely :-

Dearness
allowance to
Deputy
Speaker.

"10B. There shall be paid to the Deputy Speaker during the whole of his term of office per month the dearness allowance on the aggregate amount of the salary, consolidated allowance and the conveyance allowance referred to in sections 10, 10A and sub-section (3) of section 12C respectively, at the rate of dearness allowance applicable to the employees of the State Government.

Explanation.- For the purpose of this section, 'dearness allowance' means the dearness allowance as may be increased by the State Government from time to time after the 1st April, 2005 but does not include dearness allowance already declared prior to the said date."

8. In section 12C, in sub-section (3), for the figures "3,000", the figures "4,000" shall be substituted.

3. The Gujarat Ministers' Salaries and Allowances Act, 1960 (Guj. VI of 1960).

1. In section 3,-

(1) for the figures "4,500" occurring at two places, the figures "10,000" shall be substituted;

(2) the following proviso shall be added, namely :-

Guj. II of 1960.

"Provided that where the salary of the Members of the Assembly increases by virtue of the provisions of sub-section (1) of section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960, the salary to be paid to the Minister shall be increased in proportion to the increase in the salary of the Member of the Assembly."

2. In section 3A, for the figures "3,500", the figures "7,000" shall be substituted.

3. After section 3A, the following new section shall be inserted, namely :-

Dearness allowance to Ministers.

"3B. There shall be paid to each Minister during the whole of his term of office per month the dearness allowance on the aggregate amount of the salary, consolidated allowance and the conveyance allowance referred to in sections 3, 3A and sub-section (2) of section 5 respectively, at the rate of dearness allowance applicable to the employees of the State Government.

Explanation.- For the purpose of this section, 'dearness allowance' means the dearness allowance as may be increased by the State Government from time to time after the 1st April, 2005 but does not include dearness allowance already declared prior to the said date."

4. In section 5, in sub-section (2), for the figures "3,000", the figures "4,000" shall be substituted.

5. In section 6,-

(1) for the figures "4,500", the figures "10,000" shall be substituted;

(2) the following proviso shall be added, namely :-

Guj. II of 1960.

"Provided that where the salary of the Members of the Assembly increases by virtue of the provisions of sub-section (1) of section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960, the salary to be paid to the Deputy Minister shall be increased in proportion to the increase in the salary of the Member of the Assembly."

6. In section 6A, for the figures "3,500", the figures "7,000" shall be substituted.

7. After section 6A, the following new section shall be inserted, namely :-

Dearness allowance to Deputy Ministers.

"6B. There shall be paid to each Deputy Minister during the whole of his term of office per month the dearness allowance on the aggregate amount of the salary, consolidated allowance and the conveyance allowance referred to in sections 6, 6A and sub-section (2) of section 8 respectively, at the rate of dearness allowance applicable to the employees of the State Government.

Explanation:- For the purpose of this section, 'dearness allowance' means the dearness allowance as may be increased by the State Government from time to time after the 1st April, 2005 but does not include dearness allowance already declared prior to the said date."

8. In section 8, in sub-section (2), for the figures "3,000", the figures "4,000" shall be substituted.

4. The Gujarat Legislative Assembly (Leader of the Opposition) Salary and Allowances Act, 1979 (Guj. 16 of 1979).

Guj. II of 1960.

Dearness allowance to the Leader of Opposition.

1. In section 3,-

(1) for the figures "4,500", the figures "10,000" shall be substituted;

(2) the following proviso shall be added, namely :-

"Provided that where the salary of the Members of the Assembly increases by virtue of the provisions of sub-section (1) of section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960, the salary to be paid to the Leader of Opposition shall be increased in proportion to the increase in the salary of the Member of the Assembly."

2. In section 3A, for the figures "3,500", the figures "7,000" shall be substituted.

3. After section 3A, the following new section shall be inserted, namely :-

"3B. There shall be paid to the Leader of the Opposition during the whole of his term of office per month the dearness allowance on the aggregate amount of the salary, consolidated allowance and the conveyance allowance referred to in sections 3, 3A and sub-section (2) of section 5 respectively, at the rate of dearness allowance applicable to the employees of the State Government.

Explanation.- For the purpose of this section, 'dearness allowance' means the dearness allowance as may be increased by the State Government from time to time after the 1st April, 2005 but does not include dearness allowance already declared prior to the said date."

4. In section 5, in sub-section (2), for the figures "3,000", the figures "4,000" shall be substituted.

5. In section 8, in sub-section (2), for the figures "500", the figures "1,000" shall be substituted.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] FRIDAY, APRIL 1, 2005/CAITRA 11, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - IV

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 1st April, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department,

GUJARAT ACT NO. 24 OF 2005.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette", on the 1st April, 2005).

AN ACT

to establish and incorporate a teaching and non-affiliating University for imparting education in the related fields of the architecture, design, art, environmental planning and technology in the State of Gujarat, to be known as the Centre for Environmental Planning and Technology University, Ahmedabad and for the matters connected therewith and incidental thereto.

WHEREAS there exist the Centre for Environmental Planning and Technology Trust and the Centre for Environmental Planning and Technology Society;

AND WHEREAS the said Trust runs four institutions viz. School of Architecture, School of Planning, School of Building Science and Technology and School of Interior Design;

AND WHEREAS the said institutions run by the Centre for Environmental Planning and Technology Trust have been affiliated to the Hemachandracharya North Gujarat University;

AND WHEREAS in the interest of the education and the said institutions it is considered necessary to establish and constitute a teaching University in the related fields of the architecture, design, Environmental Planning and Technology ;

It is hereby enacted in the Fifty- sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Centre for Environmental Planning and Technology University Act, 2005.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint; and different dates may be appointed for different provisions and any reference in any provision to the date of commencement of this Act shall be construed as the reference to the date of coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "Academic and Research Council" means the Academic and Research Council constituted under section 20;

(b) "appointed date" means the date on which the Act shall come into force;

(c) "Board" means the Board of Management of the University constituted under section 16;

(d) "Chairman" means the Chairman of the University;

(e) "Dean" means the Dean of the Faculty appointed under section 12;

(f) "Director" means the Director of the University appointed under section 10;

(g) "Executive Council" means the Executive Council constituted under section 19;

(h) "Finance and Development Committee" means Finance and Development Committee constituted under section 21;

(i) "Governing Body" means the Governing Body of the University constituted under section 14;

PART IV] GUJARAT GOVERNMENT GAZETTE EX. 1-4-2005. 24-3

- (j) "Institutions" means School of Architecture, School of Planning, School of Building Science and Technology and School of Interior Design;
- (k) "prescribed" means prescribed by the regulations;
- (l) "President" means the President appointed under section 9;
- (m) "Registrar" means Registrar of the University appointed under section 11;
- (n) "Regulations" means the regulations of the University made under section 36;
- (o) "CEPT Society" means the Centre for Environmental Planning and Technology Society, Ahmedabad, registered under the Societies Registration Act, 1860;
- (p) "CEPT Trust" means the Centre for Environmental Planning and Technology Trust, Ahmedabad registered under the Bombay Public Trusts Act, 1950;
- (q) "University" means the Centre for Environmental Planning and Technology University established and incorporated under section 3.

XXI, of 1860.

Bom. 29 of 1950.

CHAPTER II

THE UNIVERSITY

3. (1) (a) There shall be established and constituted in and for the State of Gujarat a University to be known as "the Centre for Environmental Planning and Technology University, Ahmedabad."

Establishment
and
incorporation
of University.

(b) The first Chairman, the first President, the first Director, the first Deans, the first Registrar of the University and the first Members of the Board, the Executive Council, the Academic and Research Council, the Finance and Development Committee and all other persons who may hereafter become such officers or members, so long as they continue to hold such office or membership are hereby constituted a body corporate by the name of the Centre for Environmental Planning and Technology University (hereinafter in this Act referred to as "the CEPT University").

(2) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

(3) The University shall be competent to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may vest in or be acquired it for the purposes of the University, to raise loans on the securities of its assets and to contract and do all other things necessary for the purposes of this Act:

Provided that the power to raise any such loan shall be exercised after obtaining previous permission of the State Government.

(4) The headquarters of the University shall be at Ahmedabad, Gujarat.

4. The objects of the University, in general, shall be to conduct educational, training, distance and continuing education programmes at diploma and degree levels and at post-graduate levels including doctoral level and carry on research and consultancy in the areas of developed and natural environment for the human society and related disciplines including arts, science and culture and in particular, shall be:

Objects of
University

- (i) to establish a Centre of Excellence in its areas of relevance and attract the best talents at national and international level;
- (ii) to undertake educational, research and development activities and to become a Resource Centre in the service of the society and the profession by developing data-bases and reference in design, planning, technology, services and management and develop curricula, syllabi and all related facilities for the conduct of the same, and for its recognition and approval from National and International Accreditation Boards or Agencies for the purposes of employment or further education;
- (iii) to establish close linkage with profession and industry at the national and international level and to make teaching, training, and research at the University relevant to the needs of the society;
- (iv) to impart the students holistic value based education and concerns about societal issues in its areas of relevance and equip them to deal successfully with a variety of challenges and opportunities;
- (v) to develop physical facilities and services in terms of buildings, equipments, materials and support systems for effective teaching of courses and programmes, and for conduct of research and all other related activities;
- (vi) to raise financial resources by contributions, donations, grants or loans from Government agencies, industries and private individuals, for the effective functioning of the educational, research, publications and related functions of the University;
- (vii) to establish campuses to pursue the objects of the University within or without the country;
- (viii) to conduct distance education through various media including electronic media and virtual class-rooms;
- (ix) to undertake publication activities to document and disseminate course material, research findings and other related matters pertaining to the developed and natural environment;
- (x) to develop collaborative programmes with the like-minded institutions within and without the country having similar interests in the fields of research, course development, sharing of faculties, exchange of faculties and students and such other fields.

University
open to
all
irrespective
of sex,
religion,
class, creed
or opinion.

Powers and
functions
of
University.

5. (1) No person shall be excluded from any office of the University or from membership of any of its authorities or from admission to any degree, diploma or other academic distinction or course of study on the ground of sex, race, creed, caste, class, place of birth, religious belief, profession or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place of birth, religious belief or profession or political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privileges of the University or any benefaction thereof.

6. (1) Subject to the provisions of this Act, the University shall exercise the following powers and perform the following duties, namely :-

- (i) to administer and manage the University and such campuses, within or without the country for research, education, training and instruction as are necessary for the furtherance of the objects of the University;

- (ii) to conduct and to prescribe course and curricula and provide for flexibility in the education system and delivery methodologies including electronic and distance learning;
- (iii) to confer degrees, diplomas or grant certificates and other academic distinctions or titles on persons as the University may determine, and to withdraw or cancel any such degree, diploma, certificate or other academic distinction or title in the manner prescribed by the regulations;
- (iv) to confer honorary degrees or other distinctions in the manner prescribed by the regulations;
- (v) to establish specialised study centres or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;
- (vi) to collaborate or associate with, advise and to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partially similar to those of the University, through exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;
- (vii) to fix, demand and receive or recover fees and such other charges in accordance with guidelines issued by the State Government, the University Grants Commission and the All India Council for Technical Education;
- (viii) to prescribe qualifications for the admission to the courses offered by the University and admit the students as per the guidelines issued by the State Government in this regard for the courses offered by the University, in such manner as may be prescribed by the regulations;
- (ix) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;
- (x) to supervise and control the residence and regulate the discipline amongst the students of the University and to make arrangements for promoting their health, general welfare and cultural activities;
- (xi) to appoint persons as professors, associate professors, assistant professors, readers, lecturers or otherwise as teachers and researchers of the University;
- (xii) to regulate and enforce discipline amongst the employees of the University and to provide for such disciplinary measures as may be prescribed by the regulations;
- (xiii) to receive funds from industry, national and international organisations and from any other source as gifts, donations, benefactions, bequests and by transfers of movable and immovable properties under the intimation of the State Government;
- (xiv) to purchase or to take on lease or accept as gifts or otherwise any land or building or works which may be necessary or convenient for the purposes of the University on such terms and conditions as it may think fit and proper, and to construct or alter and maintain any such building or works;
- (xv) to sell, exchange, lease or otherwise dispose of movable or immovable property of the University, on such terms as it may think fit and proper without prejudice to the interests and activities of the University;

Provided that the University shall not sell, exchange, lease or otherwise dispose of movable or immovable property granted by the State Government without prior approval of the State Government or without compliance of the terms and conditions on which the State Government has given approval;

- (xvi) to raise and borrow money on bond, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities upon such terms and conditions as it may think fit and to pay out of the funds of the University all expenses incidental to the raising of money, and to repay and redeem money borrowed:

Provided that the such power shall be exercised after obtaining previous approval of the State Government and as per the directions, if any, of the Central Government in this regard;

- (xvii) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as may be prescribed by the regulations;
- (xviii) to delegate all or any of its powers to the President or the Director or any committee or sub-committee constituted by any authority of the University or to any one or more members of the Board of the University or to any officer of the University; and
- (xix) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.
- (2) The University shall function as a non-affiliating University established under this Act.

CHAPTER III

OFFICERS OF UNIVERSITY.

Officers of
University.

7. The following shall be the officers of the University, namely:-
- the Chairman,
 - the President,
 - the Director,
 - the Deans,
 - the Registrar, and
 - such other officers in the service of the University, as may be declared by the regulations, to be the officers of the University.

Chairman
of
University.

8. (1) The Chairman of the Board of Trustees of the CEPT Trust shall be the Chairman of the University.
- (2) The Chairman shall, by virtue of his office, be the head of the University and shall, when present, preside over at the meetings of the Board and at any convocation of the University and in his absence, the President shall preside at such meetings of the Board and convocation.

PART IV] GUJARAT GOVERNMENT GAZETTE EX. 1-4-2005 24-7

(3) The Chairman shall have, subject to the provisions of this Act, power to cause an inspection or review, to be made by such person or persons as he may direct, of the University, its buildings, libraries, equipments and systems and processes and of any institution or center or campuses maintained by the University and also of the examinations, teaching, research and other work conducted or done by the University and cause an inquiry to be made in the like manner in respect of any matter connected with the administration and finance of the University.

(4) The Chairman shall exercise such other powers and perform such other duties as may be assigned to him by this Act or under the regulations.

9. (1) The President shall be a person of eminence having distinguished himself in the areas of design, planning, environment and technology. He shall be a person of vision and subscribe to the objectives and philosophy of the University and shall be interested in academics.

President.

(2) The President shall be appointed by the Chairman :

Provided that until the first President is appointed by the Chairman, the first Director shall be the President of the University.

(3) The President shall hold office for a term of five years and shall be eligible for re-appointment to that office for a further term of five years.

(4) The Chairman shall appoint a Committee consisting of three members, out of whom -

- (i) one shall be the Chairman of the CEPT Trust;
- (ii) one shall be the expert from academics in the field of environmental planning and technology ; and
- (iii) one shall be the expert from the profession or industry in the field of environment and technology;

who shall prepare a panel of three suitable persons suitably ranked for the office of the President. The Chairman shall select one person from the panel and appoint him as the President of the University. The Chairman shall have the authority to ask the panel for additional names, if it does not find any one from the panel of names submitted as suitable for the office of the President.

(5) The President shall be the Chairman of:-

- (i) the Executive Council;
- (ii) the Finance and Development Committee.

(6) The President shall preside over the convocation of the University in the absence of the Chairman.

(7) The President shall appoint the Deans of various Faculties of the University in consultation with the Director.

(8) The President shall carry out such other functions as may be assigned to him by the Chairman or the Board.

10. (1) The Director shall be appointed by the Board from amongst the Deans by rotation.

Director.

(2) The term of office of the Director shall be for a period of five years.

(3) The Director of the CEPT Trust shall be the first Director of the University.

(4) The emoluments and other terms and conditions of service of the Director shall be such as may be prescribed by the regulations :

Provided that the Chairman shall determine the terms and conditions of service of the Director until it is prescribed by the regulations.

(5) The Director shall, -

- (i) exercise general supervision of the management and control the affairs of the University;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be the Chairman of the Academic and Research Council;
- (iv) be responsible for imparting of instructions and maintenance of discipline in the University; and
- (v) exercise such other powers and perform such other duties as may be assigned to him under this Act or the regulations or as may be delegated to him by the Board or the President, as the case may be.

**Registrar
and his
powers
and
duties.**

11. (1) The Registrar shall be appointed by the President, in such manner and on such terms and conditions as may be prescribed by the regulations, and shall be the whole time officer of the University.

(2) The Registrar shall exercise the following powers and perform the following duties, namely:-

- (i) he shall be responsible for the custody of records, common seal, the funds of the University and such other property of the University;
- (ii) he shall place before the Board and other authorities all such information as may be necessary for transaction of their business;
- (iii) he shall be responsible to the Governing Body, the Board, the President and the Director for the proper discharge of his functions;
- (iv) he shall, subject to the superintendence of the Director, be responsible for the administration and services of the University and make all other arrangements necessary for conducting the examinations and be responsible for the execution of all processes connected therewith;
- (v) he shall attest and execute all the documents on behalf of the University; and
- (vi) he shall exercise such other powers and perform such other duties as may be assigned to him under this Act, the regulations or as may be delegated to him by the Board or the Director.

Deans.

12. (1) The Deans shall be appointed by the President in consultation with the Director, from amongst the Faculties of the University.

(2) The term of office of the Dean shall be for a period of three years.

(3) The Deans shall assist the Director in managing the academic and other affairs of the University and shall exercise such powers and discharge such duties as may be prescribed by the regulations or as may be entrusted by the Director.

**CHAPTER IV
AUTHORITIES OF UNIVERSITY.**

13. The following shall be the authorities of the University, namely :-
- (a) the Governing Body,
 - (b) the Board,
 - (c) the Executive Council,
 - (d) the Academic and Research Council,
 - (e) the Finance and Development Committee, and
 - (f) such other authority, as may be declared by the regulations, to be the authority of the University.
- Authorities
of
University.**
14. (1) The Governing Body shall consist of those members who are from time to time the trustees of the CEPT Trust.
- (2) The Chairman shall be the Chairman of the Governing Body.
- (3) The Registrar shall be the non-member Secretary of the Governing Body.
- Governing
Body.**
15. (1) Subject to the provisions of this Act, the Governing Body shall be responsible for framing the broad policy in relation to matters of the University.
- (2) The Governing Body shall have the power to obtain from the Board of Management the annual accounts, audited report and the annual report of the University.
- (3) Where the Governing Body desires any information or explanation or any other thing in relation to the affairs of the University, it shall be lawful for it to require information, explanation or any other thing from the concerned authority of the University and may give directions to authorities of the University as it thinks fit.
- Powers
and
functions
of
Governing
Body.**
16. (1) The Board of Management of the University shall consist of the following members, namely:-
- (i) the Chairman of the Governing Body;
 - (ii) the President;
 - (iii) the Director;
 - (iv) one expert academician to be nominated by the Chairman in consultation with the President;
 - (v) one representative of the profession or industries to be nominated by the Chairman in consultation with the President;
 - (vi) one eminent personality from the fields of art, literature, humanity and science to be nominated by the Chairman in consultation with the President;
 - (vii) one Dean of the University by rotation to be nominated by the President in consultation with the Director;
 - (viii) one person to be nominated by the University Grants Commission;
 - (ix) one person to be nominated by the All India Council of Technical Education (AICTE);
 - (x) the Secretary to Government, Higher and Technical Education, Government of Gujarat;
 - (xi) the Secretary to Government, Urban Development and Urban Housing Department, Government of Gujarat;
 - (xii) the Director of Technical Education, Gujarat State.
- Constitution
of Board of
Management
of University.**

(2) The Chairman of the Governing Body shall be the Chairman of the Board.

(3) The Registrar shall be the non-Member Secretary of the Board.

Powers and functions of Board of Management.

17. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and control of the affairs of the University and shall exercise the powers of the University, and may delegate such power to the Executive Council and the President for more efficient management of the University.

(2) The Board shall have powers to review the acts of the Executive Council, Academic and Research Council and the Finance and Development Committee and other authorities.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Board shall have the following powers, namely:-

- (i) to take decisions on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make regulations;
- (iv) to constitute Executive Council and Academic and Research Council;
- (v) to constitute Finance and Development Committee;
- (vi) to consider and approve the annual report and the annual accounts of the University;
- (vii) to invest moneys and funds of the University and take decisions on the recommendations of the Finance and Development Committee;
- (viii) to create or abolish posts of teachers, officers and other employees of the University;
- (ix) to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act;
- (x) to appoint members of the Committees subject to the regulations made under this Act;
- (xi) to delegate any of its powers to the Executive Council, President, Director, Deans, Registrar, or any other officer or authority of the University or to a committee appointed by it; and
- (xii) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or under the regulations for achieving the objects of the University.

Term of office and vacancies amongst members of Board.

18. (1) The term of office of the nominated member of the Board shall be for a period of three years.

(2) An *ex-officio* member shall continue so long as he holds the office by virtue of which he is such member.

(3) When a person becomes a member of the Board by virtue of his office he shall cease to be such member, if he ceases to hold that office.

(4) When a person is nominated as a member of the Board, he shall cease to be such member if his nomination as such is withdrawn by the nominating body or person, as the case may be.

(5) A member of the Board shall cease to be a member, if he, -

- (a) tenders his resignation and such resignation is accepted; or
- (b) becomes of unsound mind and stands so declared by a competent court; or
- (c) becomes undischarged insolvent; or
- (d) has been convicted of an offence involving moral turpitude.

PART IV] GUJARAT GOVERNMENT GAZETTE EX. 1-4-2005 24-11

(6) A member of the Board may, by writing addressed to the Chairman, resign his office and such resignation shall take effect on the date it is accepted by the Chairman.

(7) Any vacancy in the Board shall be filled in by nomination of a person by the relevant authority and the person so nominated shall hold office for so long as the member in whose place he is nominated would have held office had the vacancy not occurred.

(8) The member shall be eligible for re-nomination for a further term of three years.

19. (1) The Executive Council shall consist of the following members, namely :-

- (i) the President of the University who shall be the Chairman of the Executive Council;
- (ii) the Director;
- (iii) the Deans.

(2) The Registrar shall be a non-member Secretary of the Executive Council.

(3) Subject to the provision of this Act and the regulations, the Executive Council shall have the following powers and perform the following duties, namely :-

- (i) to administer and manage the University including various center, campus and cell of the University;
- (ii) to finalise and implement academic calendar to include examination schedules, holidays, vacations and such other matters;
- (iii) to regulate expenditure, management of finance including grants and such other matters;
- (iv) to create and maintain infrastructure facilities and amenities of the University;
- (v) to award fellowships, scholarships, prizes, medals and such other awards;
- (vi) to ensure discipline and make provisions for welfare of students, officers and employees, overall security measures, student activities, campus development, campus maintenance and allied matters;
- (vii) to plan, encourage and monitor execution of research projects, consultancy activities, conduct of seminars, training programmes and workshops;
- (viii) any other powers delegated by the Board.

(4) The term of the office of the members of the Executive Council shall be for a period of three years.

20. (1) The Academic and Research Council of the University shall consist of the following members, namely :-

- (i) the Director of the University, who shall be the Chairman;
- (ii) the Deans;
- (iii) the Heads of Departments of all post-graduate programmes;
- (iv) one expert academican from each discipline of the University to be nominated by the Board;
- (v) one expert professional from each discipline to be nominated by the Executive Council.

**Constitution
of Executive
Council, its
powers and
duties.**

**Constitution
of Academic
and
Research
Council, its
powers and
duties.**

- (2) The Registrar shall be the non-member Secretary of the Council.
- (3) The term of office of the members shall be for a period of three years.
- (4) The Academic and Research Council of the University shall have the following powers and perform the following duties, namely :-

- (i) to develop perspective plan for academic development of the University;
- (ii) to develop academic and research policies of the University and to exercise control and have superintendence over the maintenance and improvement of standards of instructions, education and evaluation;
- (iii) to approve new programmes and to approve changes or modifications in existing programmes;
- (iv) to receive reports of the Boards of Studies and make suitable recommendations in academic matters of programmes;
- (v) to recommend to the Boards of Studies, the Deans and the persons in charge of various academic programmes to make suitable changes in the programmes including methods of assessment;
- (vi) to initiate or approve research programmes including collaborative research;
- (vii) to initiate or approve collaboration with other educational institutions;
- (viii) to encourage and develop joint inter-disciplinary programmes;
- (ix) to exercise such other powers and perform such other duties as may be conferred upon it by the regulations.

**Constitution
of Finance
and
Development
Committee,
its powers and
duties.**

21. (1) The Finance and Development Committee shall consist of the following members, namely :-

- (i) the President shall be the Chairman of the Committee;
- (ii) the Director;
- (iii) the Deans;
- (iv) one member of the Board to be nominated by the Chairman in consultation with the President;
- (v) one expert to be nominated by the Chairman in consultation with the President;

- (2) The Registrar shall be the non-member Secretary of the Committee.

- (3) The term of office of the members other than the *ex-officio* member shall be for a period of three years.

- (4) The Finance and Development Committee shall exercise the following powers and perform the following duties, namely:-

- (i) to examine the annual accounts and annual budget estimates of the University and advise the Board thereon;
- (ii) to review the financial position of the University from time to time;
- (iii) to make recommendation to the Board on financial policy matters of the University;
- (iv) to make recommendations to the Board on proposals involving raising of funds, receipts and expenditure;
- (v) to lay-down guidelines for investment of surplus funds;
- (vi) to make recommendations to the Board on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget has been incurred;

- (vii) to examine all proposals relating to revision of pay-scales, up-gradation of the scale and those items which are not included in the budget, before they are placed before the Board;
- (viii) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by the regulations;
- (ix) to consider and approve plans of development of the University;

CHAPTER V FINANCE

22. (1) The University shall establish a fund to be called the University Fund.
 (2) The following shall form part of, or be paid into, the University Fund :-
- (i) all moneys received from the CEPT Trust;
 - (ii) income of the University from all sources including income from fees and charges;
 - (iii) all contributions or grants received from the State Government, the Central Government, the All India Council of Technical Education, University Grants Commission or any other agency;
 - (iv) loans, gifts, donations, endowments, benefactions, bequests or transfers;
 - (v) all moneys received by the University from the collaborating industry in terms of the provisions of the Memorandum of Understanding between the University and the industry for establishment of sponsored chairs, fellowships and infrastructure facilities of the University; and
 - (vi) all monies received by the University in any other manner or from any other source;
 - (vii) any sum borrowed from the banks with the permission of the State Government.

**Funds of
University.**

(3) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on recommendation of the Finance and Development Committee.

(4) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions in such manner, as may be prescribed by the regulations.

23. The CEPT Trust shall place funds at the disposal of the University to be called the Permanent Endowment Fund of a sum of rupees one crore or a sum required for meeting the full operational expenditure of the University for three years, in long term interest bearing securities issued or guaranteed by the Central Government or the State Government.

**Permanent
Endowment
Fund.**

CHAPTER VI ACCOUNTS, AUDIT AND ANNUAL REPORT

24. (1) The University shall maintain proper accounts and other relevant records, and prepare an annual statement of accounts, including the income and expenditure of account and the balance sheet, in such form and in such manner as may be prescribed by the regulations.

**Accounts
and audit.**

(2) The accounts of the University shall be audited every year and in any case within six months from the date of closing of the financial year by the auditor who shall be a Chartered Accountant as defined in the Chartered Accountant Act, 1949 or a firm of Chartered Accountants appointed by the Board.

(3) The accounts of the University certified by the auditor or the firm so appointed or any other person authorised in this behalf together with the audit report thereon shall be placed before the Board and the Board may issue such instructions to such authority of the University in respect thereof as it deems fit and the authority shall comply with such instructions.

(4) The University shall adopt a proper system of internal checks and balances and control in respect of finance, accounts and audit as may be prescribed by the regulations.

(5) The accounts of the University shall be audited by an internal auditor who shall be appointed by the Board to ensure concurrent audit of all books of accounts, and such periodic internal audit reports shall be placed before the Board for its consideration.

(6) The accounts relating to grant-in-aid instituting together with the audit report shall be placed before the Board and shall also be submitted to the State Government.

(7) The State Government may conduct the test audit or full audit of the accounts of the University by the auditors appointed by the State Government, when it requires so to do.

Annual
report.

25. (1) The University shall prepare each year the annual report for the financial year containing such particulars as the Board may specify and shall be submitted to the Board on or before such date as may be prescribed by the regulations. The Board shall consider such report and may pass resolutions thereon and the Executive Council shall take such action in accordance with the resolution. The action taken by the Executive Council and if no action is taken, the reasons for taking no action shall be communicated to the Board at its meeting.

(2) The copy of the annual report alongwith the resolution of the Board thereon shall be submitted to the State Government.

CHAPTER VII SUPPLEMENTARY PROVISIONS

Dismissal,
removal,
reduction
and
termination
of service of
staff of
University.

26. (1) No member of the teaching, other academic and non-teaching staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) An appeal from an order of dismissal, removal or reduction under sub-section (1) or of termination shall lie to the President within ninety days from the date of the communication of such order and the decision of the President in such appeal shall be final.

Returns
and infor-
mation.

27. The University shall furnish to the State Government, the University Grants Commission and other statutory authorities such reports, returns, statements and other information as may be required by them from time to time.

28. (1) The State Government shall have power to issue directions to the University, from time to time, as may be required for compliance of the provisions of this Act and the regulations.

Power of State Government to issue directions.

(2) Without prejudice to the provisions of sub-section (1), the State Government may issue directions, when it requires, in regard to the following matters, namely :-

- (i) fees and charges;
- (ii) raising of funds and borrowing money;
- (iii) creation of posts and appointments;
- (iv) revision of pay-scales and up-gradation of scales.

29. No act or proceeding of the Board or any authority of the University or any committee constituted under this Act or by the regulations shall be invalidated merely by reason of, -

Acts and proceedings not to be invalidated by vacancies.

- (i) any vacancy in its membership or any defect in the constitution thereof, or
- (ii) any irregularities in its procedure not affecting merits of the case.

30. No suit or other legal proceedings shall be instituted against or no damages or compensation shall be claimed from, the University, the Director, the authorities or officers of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or regulations made thereunder.

Protection of action taken in good faith.

31. Every officer, teacher and other employees of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Officers and employees to be public servants.

45 of 1860.

Explanation.- For the purposes of this section, any person, who is appointed by the University for a specified period or for a specified work of the University or, who receives any remuneration by way of compensatory allowance or fee for any work done from the University Fund, shall be deemed to an officer or employee of the University while he is performing and in relation to all matters relatable to the performance of the duties and functions connected with such appointment of work.

22 of 1986.

32. Notwithstanding anything contained in section 41 of the Hemachandracharya North Gujarat University Act, 1986, the rights conferred on the institution, to the Hemachandracharya North Gujarat University as a College are hereby withdrawn as if it were an order of the State Government under sub-section (4) of the said section 41.

Affiliation.

33. Any student of such institutions, who immediately before the date of commencement of this Act studying or was eligible for any examination of the Hemachandracharya North Gujarat University shall be transferred to the university and permitted to complete his course in preparation of such examination and the University shall provide for such period and in such manner as may be prescribed by the regulations for the instructions, teaching, training and examinations of such students in accordance with the courses of study of the Hemachandracharya North Gujarat University.

Transfer and completion of courses of students of institutions of CEPT.

34. If any difficulty arising in giving the effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Removal of difficulties at the commencement.

Provided that no such order shall be made after the expiry of the period of three years from the commencement of this Act.

35. Save as otherwise provided in this Act, when any vacancy occurs in the office of a member (other than an *ex-officio* member) of any authority or other body of the University before the expiry of the term of office of such member, the vacancy shall be filled up, as soon conveniently as may be, by nomination, appointment or, as the case may be, co-option of a

Filling up of casual vacancies.

member who shall hold office so long only as the member in whose place he has been nominated, appointed or co-opted, would have held it, if the vacancy had not occurred.

CHAPTER VIII REGULATIONS OF UNIVERSITY

Regulations.

36. (1) Subject to the provisions of this Act, the Board shall have power to make regulations consistent with the provisions of this Act to provide for the administration and management of the affairs of the University.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely :-

- (i) the powers and functions to be exercised and discharged by the Chairman of the Board and the President;
- (ii) the constitution, powers and duties of the authorities, bodies and other committees of the University established under this Act, the qualifications and disqualifications for membership of such authorities, bodies and other committees, term of office of the membership thereof and other matters connected therewith;
- (iii) the degrees, diplomas, certificates and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degrees, diplomas, certificates and other academic distinctions and titles and the requirements thereof;
- (iv) the academic programmes, collaboration with universities and collaborative programmes, , setting up centres and campuses within and without the country, distance education, research, consultancy, training and continuing education;
- (v) the creation of posts of Professors, Associate Professors, Assistant Professors, Readers, Lecturers, Researchers or equivalent academic designations or posts, officers and employees of the University, and the appointment of persons to such posts including the qualifications requisite therefore;
- (vi) the fees and other charges which may be paid to the University for the courses, training, facilities and services provided by it;
- (vii) the preparation of budget estimates and maintenance of accounts;
- (viii) the terms and conditions of appointments, salaries and allowances, contractual services, rules of discipline and other conditions of the service of the President, the Director and other officers, teachers and employees of the University;
- (ix) the powers and duties of the President, the Director and other officers, teachers and employees of the University;
- (x) the matters relating to discipline of students, hostels and halls of residence including control thereof;
- (xi) constitution of pension and provident fund;
- (xii) all other matters which is to be or may be prescribed by this Act and the regulations.

(3) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

- (4) Any rescission or modification so made by the State Legislature shall be published in *Official Gazette*, and shall thereupon take effect.

CHAPTER IX TRANSITORY PROVISIONS

37. Notwithstanding anything contained in section 9, a person who holds the post of Director of the Centre for Environmental Planning and Technology Trust immediately before the appointed date shall be the first President.

**Appoint-
ment of first
President.**

38. Notwithstanding anything contained in section 10, the first Director shall be appointed by the President.

**Appointment
of first
Director.**

39. Notwithstanding anything contained in this Act:-

**Transitory
provisions for
first Board of
Management,
first Executive
Council, first
Academic and
Research
Council, first
Finance and
Development
Committee, and
first Registrar.**

- (i) the Governing Council of the Centre for Environmental Planning and Technology Trust functioning immediately before the date of the commencement of this Act, shall be deemed to be the first Board of Management of the University and shall function as Board until such Board is constituted under this Act;
- (ii) the Executive Council of the Centre for Environmental Planning and Technology Trust functioning immediately before the appointed date, shall be deemed to be the first Executive Council of the University and shall function as Executive Council until such Council is constituted under this Act;
- (iii) the Academic and Research Council of the Centre for Environmental Planning and Technology Trust functioning immediately before the appointed date, shall be deemed to be the first Academic and Research Council of the University and shall function as Academic and Research Council until such Council is constituted under this Act;
- (iv) the Finance and Development Committee of the Centre for Environmental Planning and Technology Trust functioning immediately before the appointed date, shall be deemed to be the first Finance and Development Committee of the University and shall function as Finance and Development Committee until such Committee is constituted under this Act;
- (v) the Deputy Registrar of the Centre for Environmental Planning and Technology Trust functioning immediately before the date of the commencement of this Act, shall be deemed to be the first Registrar of the University and shall function as the Registrar of the University until the Registrar is appointed under this Act;
- (vi) the existing regulations of the Centre for Environmental Planning and Technology Trust shall, in so far as they are not inconsistent with the provisions of this Act, shall apply till regulations are made under this Act.

Transitory provisions for officers and employees.

40. (1) All officers and employees employed in the existing CEPT Trust immediately before the appointed day shall, subject to the provisions of this Act, be deemed to be the officers and employees of the University and shall exercise such power and perform such duties as are conferred upon it by or under this Act.

(2) They shall receive salaries and allowances and be subject to the same conditions of service to which they were entitled or subject to immediately before the commencement of this Act until any other provisions are made in accordance with this Act :

Provided that the conditions of service applicable immediately before the appointed day to any officer or employee shall not be varied to his disadvantage except with the previous approval of the State Government.

(3) The teachers, officers and employees of the University referred to in sub-section (1) who are covered under the pensions and provident fund scheme of the State Government shall be deemed to be continued to be governed by the said scheme of the State Government.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI]

FRIDAY, APRIL 1, 2005/CAITRA 11, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - IV

Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to
by the Governor on the 1st April, 2005 is hereby published for general
information.

S. S. PARMAR.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 25 OF 2005.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette", on the 1st April, 2005).

AN ACT

to provide for the establishment and incorporation of a teaching and affiliating
University in the State of Gujarat to be known as the Shree Somnath Sanskrit
University for the purpose of prosecution of scientific based research and
comprehensive study in and for the teaching of the Sanskrit and its literature; and
to bring into light and to interpret practically the imbedded universal values,
knowledge, wisdom, vision presented therein, in the context of the needs of the
people and of the modern scientific and technological advancement.

It is hereby enacted in the Fifty-sixth Year of the Republic of India
as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Shree Somnath Sanskrit University Act, 2005.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint; and different dates may be appointed for different provisions and any reference in any such provision to the date of the commencement of this Act shall be construed as the reference to the date of coming into force of that provision.

Short title,
extent and
commencement.

Definitions. 2. In this Act, unless the context otherwise requires, -

(a) "affiliated college" means a college affiliated under section 50;

(b) "approved institution" means an institution approved under section 52;

(c) "college" means a degree college or an affiliated college, teaching any of the courses leading to a certificate, diploma or a degree;

(d) "hostel" means a unit of residence for students maintained or recognised by the University under this Act;

(e) "*pathashala*" means *pathashala* recognised as such by the State Government and which is imparting education in Sanskrit leading to a certificate of *Prathma*, *Madhyama* granted and a degree of *Shastri* and *Acharya* conferred by the State Examination Board, as the case may be;

(f) "prescribed" means prescribed by the regulations;

(g) "principal" means the head of a college;

(h) "recognised institution" means the institution of research or specialised study and recognised as such by the University under section 51;

(i) "regulations" means the regulations made under section 57;

(j) "Sanskrit" includes *Prakrit*, *Magadhi*, *Ardhamagadhi* and *Pali*;

(k) "teacher" means professor, reader, lecturer imparting instruction or guiding research in the University or a

University college or an affiliated college or a recognised institution or an approved institution or such other persons as may be declared to be the teachers by the Regulations;

- (l) "University " means the Shree Somnath Sanskrit University constituted under section 3;
- (m) "University area" means the area of the whole of the State of Gujarat;
- (n) "University college" means a college which the University may establish or maintain;
- (o) "University Department" means any post-graduate or research institution or department maintained by the University.

CHAPTER II UNIVERSITY

3. (1) There shall be established and constituted in and for the State of Gujarat a University to be known as "the Shree Somnath Sanskrit University".

Establishment
and
incorporation
of University.

(2) The Chancellor, the first Vice-Chancellor, of the University and the first members of the Executive Council and the Academic Council of the University, the first Registrar and all persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "the Shree Somnath Sanskrit University".

(3) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

(4) The University shall be competent to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may vest in or be acquired by it for the purposes of the University, to raise loans on the securities of its assets and to contract and do all other things necessary for carrying out the purposes of this Act:

Provided that the power to raise any such loan shall be exercised after obtaining the previous permission of the State Government.

(5) The headquarters of the University shall be at Somnath, District- Junagadh, Gujarat State.

4. The objects of the University shall be as follows, namely: -

Objects of
University.

- (a) to rejuvenate, cherish and disseminate the universal values, knowledge, wisdom and vision presented in Sanskrit language and literature and establish a progressive synthesis between ancient Indian wisdom and modern scientific thought in harmony with the needs of present and future;
- (b) to extend the benefits of knowledge and skills for the development of individuals and society by promoting the study of *Sanskrit* and cognate discipline;
- (c) to encourage develop and foster the ideals and values enshrined in the *Vedic* study and Sanskrit literature and *Shastras* in the Sanskrit and other ancient languages and to bring these ideals and values in harmony with the needs of present and future generation and project a progressive synthesis in the light of the insights contained in the Sanskrit and other ancient languages;
- (d) to encourage, promote and conduct a system of education relevant to the studies of the Sanskrit literature with special emphasis on, -
 - (i) the traditional relationship between the teacher and the taught (*Guru-Shishya Parampara*);
 - (ii) methods of studies and experimentation in which discipline (*anushashan*) and self-study (*swadhyaya*) are fundamental components; and
 - (iii) development of faculties, not only of empirical and rational knowledge but also of higher modes of consciousness;
- (e) to create and develop facilities for the integral development of personality of students under an atmosphere conducive to the fostering of capacities and values of physical, vital, mental, moral, scientific, aesthetic and spiritual growth;
- (f) to provide facilities for teachers and students for learning-teaching processes so that individual attention to students is provided and objectives of scholarship and excellence are promoted;
- (g) to provide facilities for the study and practice of the traditional *Vedic* system of recitation from the early stage of education and to provide environment and facilities under which foundations of Sanskrit studies can be established among the young learners;
- (h) to develop and conduct teaching methodologies, practicable Sanskrit pedagogy for the benefit of educational innovations;

- (i) to provide facilities and programmes of studies centered on the cultural heritage of India leading to a harmonious synthesis of the East and the West;
- (j) to develop special courses of study of Sanskrit and to apprise of the major contribution of the Sanskrit in the maintenance of the emotional integration of the nation and to conduct special courses of study and to undertake activities therefor;
- (k) to organise and conduct expositions, exhibitions and extension programmes related to the themes expounded in the *Veda-Vedanga* literature and other related literature for generating new thoughts and ideology in that context;
- (l) to provide facilities for studies and research in Indian classical languages; and other classical languages such as Greek, Latin, Avestan, old Persian and also foreign languages such as South Asian languages, English, French, German, Russian, Chinese, Japanese, Tibetan and encourage comparative study of these languages along with Sanskrit;
- (m) to promote interaction and co-ordination among Sanskrit *Pathashalas* to make the study of traditional type of Sanskrit teaching-learning more purposeful, and to effect a fusion between traditional and modern systems of Sanskrit education;
- (n) to establish special chair for the prosecution of studies in the Sanskrit and its literature and allied branches of the knowledge (*Vidya Sakha*) in Sanskrit;
- (o) to institute career oriented courses through continuing education, correspondence and distance education;
- (p) to establish the research centres and discover in the ancient Sanskrit literature, the existence of the principles, ideology which are propounded and contained in the humanities and modern sciences such as Physics, Chemistry, Medical Science, Bio-Medical, Surgical and related subjects and which aim at linking the past with the present and enables the nation to meet the challenges of the future;
- (q) to prepare and conduct special courses to integrate the *Ayurveda* with modern medicine, the *Vastu Shastra* with modern architecture, the *Arthashastra* with modern economics and political science, the *Vyakarana* with modern grammar and linguistics;
- (r) to establish the schools for languages and literature, philosophy, *veda-vedanga*, *Shikshaka-Prashikshana*, *Dharma*

Shastra and such other schools as may be declared to be schools under the regulations.

5. Subject to the provisions of this Act, the University shall exercise the following powers and discharge the following functions, namely:-

Powers and
functions of
University.

- (a) to provide for instruction including correspondence courses, teaching and training in such branches of learning and courses of study, as it may think fit;
- (b) to make provisions for research in Sanskrit, post-graduate courses, conduct special and under-graduate courses, advancement and dissemination of knowledge;
- (c) to promote national integration and nourish cultural heritage;
- (d) to establish, maintain and manage University colleges, schools, departments and institutes of research or specialised studies;
- (e) to sanction affiliation, recognition and approval to the colleges, institutions and *Pathashalas* respectively;
- (f) to withdraw or modify affiliation, recognition, or approval of educational institutions;
- (g) to organise language laboratories, libraries, museums and other equipments for teaching and to promote research;
- (h) to institute professorships, readerships, lecturerships and other posts of teachers required by the University;
- (i) to lay down the courses of instructions for the various examinations;
- (j) to institute degrees, diplomas, certificates and other academic distinctions and titles;
- (k) to hold examinations or tests and confer degrees and diplomas on, and grant certificates to, persons who -
 - (i) have pursued approved courses of study in the University or an affiliated colleges, unless exempted there from, in such manner as may be prescribed and have passed the examinations or tests prescribed by the University; or
 - (ii) carry out research on such conditions as may be prescribed;

- (l) to confer honorary degrees or other academic distinctions in such manner as may be prescribed;
- (m) to withdraw or cancel any degree, diploma or certificate conferred or granted by the University in such manner as may be prescribed;
- (n) to associate or admit educational institutions with, or to the privileges of the University by way of affiliation, recognition or approval;
- (o) to grant such diplomas and certificates to, and to provide such lectures, instructions and training to, persons who are not enrolled as students of the University on such conditions as may be prescribed;
- (p) to organise and conduct conferences, debates, discussions, seminars, symposia, workshops, refreshers courses and such other programmes at national and international level in furtherance of the objects of the University;
- (q) to maintain archives, libraries, information centres, data bank, museums and such other institutions which are useful for the furtherance of the objects of the University;
- (r) to collect, conserve, edit and publish ancient manuscripts, to conserve materials of archaeological values and importance and to reproduce the valuable works of the Sanskrit;
- (s) to accept donations, grants, gifts, or to borrow money from the Central Government, any State Government or from any individual, association or body corporate:

Provided that power to borrow moneys shall be exercised after obtaining previous approval of the State Government;

- (t) to institute, hold and manage endowments for the promotion of Sanskrit and to give financial and other assistance to deserving institutions or individuals engaged in the dissemination of Sanskrit learning and to institute and award fellowships, scholarships and prizes in accordance with the Regulations for the promotion and propagation of Sanskrit;
- (u) to give financial and other assistance to institutions or individuals for the publication of literature through printing and electronic media which are conducive to the furtherance of the objects of the University;

- (v) to inspect colleges, recognised and approved institutions and to take measures to ensure that proper standards of instruction, teaching and training are maintained in them and that adequate library and laboratory provisions are made therein;
- (w) to lay down and regulate the salary scales, allowances and other conditions of service of the members of the teaching, other academic and non-teaching staff in the affiliated colleges, University colleges and recognised and approved institutions as per the rules of and guideline issued by the University Grants Commission;
- (x) to control and co-ordinate the activities of and to give financial aid to, University colleges and University Departments;
- (y) to regulate the fees to be paid by the students in affiliated colleges, recognised and approved institutions;
- (z) to institute and award fellowship, traveling fellowships, scholarships, studentships, medals, prizes and other awards;
- (aa) to take disciplinary action against the teachers and students of the University and to impose such punishment upon them as may be deemed fit for the breach of discipline or misconduct, within or outside the University including the use of unfair means at an examination or in relation thereto by themselves or by any other persons or abatement thereof;
- (bb) to conduct, co-ordinate, supervise, regulate and control post-graduate teachings and research work in the University Departments and affiliated colleges and recognised and approved institutions;
- (cc) to acquire, hold, manage and dispose of any property movable and immovable, including trust or endowed property within or outside the University and to invest any funds representing such property in such manner as the University thinks fit under the intimation to the State Government;
- (dd) to institute and manage,—
 - (i) Printing and Publication Department,
 - (ii) Information Bureau, and
 - (iii) Distance Education Department;

- (ee) to make provisions,-
- (i) for continuing education, adult education, extra-mural activities, extension services and other recognised educational activities,
 - (ii) for physical education, National Cadet Corps, National Services Scheme, National Sports Organisation and such other recognised activities, and
 - (iii) for *yoga*, sports, and athletic activities;
- (ff) to co-operate with other University, authorities or associations or any other public or private bodies in such manner and for such purposes as the University may determine;
- (gg) to raise public loans on security of the assets of the University for the purposes of the University with the previous approval of the State Government;
- (hh) to generate resources by frugal and productive utilisation of the University resources;
- (ii) to organise the projects and programmes for making the Sanskrit languages to be a language of mass for conversation;
- (jj) to establish within the University area or without the area such field stations, campuses, specialised laboratories and other units for research and instructions and for post-graduate studies in a specialise subjects;
- (kk) to guide and regulate teaching and research work in University colleges, University Departments and recognised institutions;
- (ll) to enforce and maintain discipline among the teachers, students, officers and staff and to make necessary arrangements for their welfare;
- (mm) to fix and collect fees and other charges as may be prescribed by the regulations;
- (nn) to supervise and control the residence and regulate the conduct and discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;

- (oo) to do all such other acts and things whether they are incidental to the aforesaid powers and functions or not, as may be necessary in order to further the objects of the University or which may be incidental or ancillary to achieve these objects.

6. (1) No person shall be excluded from any office of the University or from membership of any of its authorities or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, caste, class, place of birth, religious belief, or political or other opinion.

University open to all irrespective of sex, religion, class, creed or opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed caste, class, place of birth, religious belief or profession or political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privileges of the University or any benefaction thereof.

Teaching in University.

7. (1) All teaching works recognised by the University shall be conducted either, -

- (a) in the University, or
- (b) in the affiliated colleges, or
- (c) in the recognised or approved institutions, or
- (d) such other places or centres which are recognised by the University, where such courses are conducted.

(2) The courses of study and other activities as may be prescribed shall be observed by the University, affiliated colleges, recognised and approved institutions, recognised places or centres.

Inspection and inquiry.

8. (1) The Chancellor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories, libraries, museums, workshops and equipments of any college or hostel maintained, recognised or approved by, or affiliated to the University, of the teaching and other work conducted by the University and of the conduct of examination held by the University and to cause an inquiry to be made in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made and the University shall be entitled to be represented thereat.

(2) The Chancellor shall communicate to the Executive Council his views with reference to the results of such inspection or inquiry and shall, after ascertaining the opinion of the Executive Council, advise the University on the action to be taken.

(3) The Executive Council shall report to the Chancellor such action, if any, as it has taken or may propose to take upon the results of the inspection or, inquiry. Such report shall be submitted within such time as the Chancellor may direct.

CHAPTER III OFFICERS OF UNIVERSITY

Officers of
University.

9. The following shall be the officers of the University, namely:-

- (i) The Chancellor,
- (ii) The Vice-Chancellor,
- (iii) The Deans of Faculties,
- (iv) The Director (Research),
- (v) The Registrar,
- (vi) The University Librarian,
- (vii) The Finance and Accounts Officers, and
- (viii) Such other officers in the service of the University as may be declared by the regulations to be the officers of the University.

10. (1) The Governor of the State of Gujarat shall be the Chancellor of the University. Chancellor.

(2) The Chancellor shall, by virtue of his office, be the head of the University and shall, when present, preside at any convocation of the University.

(3) The Chancellor shall have such other powers as may be conferred on him by this Act or the regulations.

11. (1) The Vice-Chancellor shall be appointed by the State Government. Vice-Chancellor.

(2) The Vice-Chancellor shall be a person of eminence having distinguished himself in the areas such as *Sanskrit*, *Prakrit* and ancient Asian languages and literature. He shall be a person of vision and subscribe to the objectives and philosophy of the University and shall be interested in academics.

12. (1) (a) To recommend a panel of three suitable persons for the appointment of the Vice-Chancellor, the State Government shall constitute a Committee consisting of three members, out of whom, Appointment of Vice-Chancellor.

- (i) one shall be nominated by the Chancellor who shall be an expert from academics in the field of Indology;

- (ii) one shall be the scholar in the field of Sanskrit and ancient literature nominated by the Vice-Chancellor of the Universities established by law in the State;
- (iii) one shall be an expert in the field of Sanskrit and its literature nominated by the Executive Council and the Academic Council jointly in such manner as may be prescribed by the Regulations.

(b) The State Government may nominate one of the members as the Chairman of the said Committee.

(c) A person nominated on the Committee shall not be eligible to accept any appointment on any post, honorary or otherwise, or nomination on any of the authorities or bodies of the University, for a period of two years from the date of such nomination.

(2) (a) The Committee shall, within the period of eight weeks of the constitution prepare a panel of three eminent scholars whom it considers worthy of being appointed as Vice-Chancellor, and shall recommend the panel to the State Government, with such other particulars as may be prescribed by the regulations with the names of the persons so recommended in alphabetical order of surnames and without indicating any preference.

(b) The State Government may accept the recommendation of the committee or seek a fresh recommendation from the same committee or require the committee to make change in its members or reconstitute the committee.

(c) If the person so appointed as the Vice-Chancellor happens to be a member or an office bearer of any political party or any trade union or staff association or such other bodies or holds the office in any statutory public body or of a body of local self-Government, he has to tender his resignation therefrom, under an intimation to the Chancellor and the State Government, before accepting the appointment.

(3) Subject to the provisions of sub-section (4), the State Government shall appoint, one of the persons from the panel as the Vice-Chancellor:

Provided that no person shall be appointed as the Vice-Chancellor or held his office as such after the completion of the age of sixty-five years.

(4) The Vice-Chancellor shall hold office for a term of three years and he shall be eligible for reappointment as the Vice-Chancellor for a further term of three years only. He shall also not be eligible for appointment as an officer or member of any authority of the University after expiry of the term of his office.

(5) The terms and conditions of service and the emoluments to be paid to the Vice-Chancellor shall be such as may be determined by the State Government.

(6) (a) During the leave or absence of the Vice-Chancellor,
or

(b) in the event of resignation or a permanent vacancy in the office of the Vice-Chancellor until an appointment is made under subsection (3) of this section to that office,

(c) the State Government shall nominate the Director (Research) or one of the Deans of the Faculties as the Vice-Chancellor for the purpose of carrying out the current duties of the office of the Vice-Chancellor.

(7) The Vice-Chancellor may, by writing under his signature, addressed to the State Government after giving one month's notice, resign from his office and shall cease to hold office on the acceptance of his resignation by the State Government or from the date of expiry of the said notice period, whichever is earlier.

13. (1) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall be *ex-officio* member and the Chairman of the Executive Council, the Academic Council, the Finance and Accounts Committee and such other authorities as constituted under the regulations, and in the absence of the Chancellor, shall preside at any convocation of the University.

Powers and
duties of Vice-
Chancellor.

(2) The Vice-Chancellor shall be responsible for the development and monitoring of the academic programmes and also the general administration of the University, to ensure efficiency, an order and enhance the reputation of the University.

(3) The Vice-Chancellor shall have the power to convene meetings of any of the authorities, bodies or committees, as and when he considers it necessary to do so.

(4) It shall be the duty of the Vice-Chancellor to ensure that the provisions of this Act, regulations and that the decisions of the authorities, bodies and committees are properly implemented which are not inconsistent with this Act or Regulations.

(5) (a) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, he shall take such action as he deems necessary. He shall report to the Executive Council and the State Government such action with grounds for his belief that there was an emergency.

(b) When action taken by the Vice-Chancellor under this sub-section affects any person in the service of the University, such person shall be entitled to prefer an appeal through the said authority or body to the Executive Council within fifteen days from the date on which such action is communicated to him.

(6) Where any matter is required to be regulated by the regulations, but no regulations are made in that behalf, the Vice-Chancellor may, for the time being, regulate the matter by issuing such directions as he thinks necessary and shall, in the ensuing meeting thereafter, place the directions before the Executive Council or the authority or body concerned for information and at the same time, place before such authority or body for consideration the draft of the regulations, as the case may be, required to be made in that behalf.

(7) The Vice-Chancellor shall be the appointing and disciplinary authority for the University teachers and for officers of the University of the rank equivalent to the Assistant Registrar and above, on the recommendations of the selection committee constituted for the said purpose.

(8) The Vice-Chancellor may suspend a member as the Chairman of the authority, body or committee of the University, from the meeting of the authority, body or committee if such member persists in obstructing or stalling the proceedings of such authority, body or, as the case may be, committee or indulges in behaviour unbecoming of a member and shall report the matter accordingly to the Chancellor.

(9) The Vice-Chancellor shall place before the Executive Council a report of the work of the University periodically.

(10) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be conferred upon him by or under this Act and Regulations.

(11) (a) The Vice-Chancellor shall have the right to cause an inspection or inquiry on such matters and in such manner as may be prescribed.

(b) After making such inspection or inquiry, the Vice-Chancellor may take such action, as he thinks fit, in consultation with the Executive Council.

Registrar, his powers and functions.

14. (1) The Registrar shall be appointed by the Vice-Chancellor in such manner as may be prescribed under section 18.

(2) The Registrar shall be the Chief Administrative Officer of the University. He shall be a full-time salaried officer and shall act as the Member-Secretary of the Executive Council, Academic Council and such other authorities, bodies and committees of the University in accordance

with the regulations made in this behalf and his condition of service and emoluments to be paid shall be determined by the regulations.

(3) The Registrar shall make all necessary arrangements relating to conduct of examinations such as preparation of schedule of examinations, preparation of the list of paper setters and examiners, evaluation work, declaration of results and matters incidental and related thereto.

(4) The Registrar shall be the custodian of records, common seal and such other property of the University as the Executive Council may commit to his charge.

(5) The Registrar shall exercise such other powers and perform such other functions and duties as may be prescribed by or under this Act or assigned to him, from time to time, by the Vice-Chancellor.

15. (1) The University shall appoint a person as the Director (Research) who shall be the whole time salaried officer of the University and shall subject to the provisions of the Act and the regulations made in this behalf, and exercise such powers and perform such duties as the University may assign. He shall discharge his functions under the directions and control of the Vice-Chancellor. Director
(Research).

(2) He shall supervise and monitor working and maintenance of the institutes of research or specialised studies and shall report to the Executive Council, periodically.

16. (1) The University Librarian shall be appointed by the Vice-Chancellor in the manner prescribed under section 18. The University Librarian shall be the principal officer of the University. He shall be a full time salaried officer of the University. University
Librarian.

(2) The University Librarian shall exercise such other powers and perform such other duties as may be prescribed and assigned to him by the Vice-Chancellor.

17. (1) (a) The Finance and Accounts Officer shall be appointed by the Vice-Chancellor in the manner prescribed under section 18; Finance and
Accounts
Officer, its
powers and
functions.

(b) The Finance and Accounts Officer shall be the principal finance officer of the University. He shall be a full time salaried officer and shall work directly under the control of the Vice-Chancellor.

(2) The Finance and Accounts Officer shall be the Member-Secretary of the Finance and Accounts Committee.

(3) The Finance and Accounts Officer shall have the right to be present, speak and otherwise take part in the proceedings of the Executive Council on matters having financial implication, but shall not be entitled to vote.

(4) The Finance and Accounts Officer shall maintain minutes of the meetings of the Finance and Accounts Committee and shall ensure proper implementation of the decision taken by the Finance and Accounts Committee.

(5) The Finance and Accounts Officer shall be responsible for presenting the annual budget, statement of accounts and audit reports, to the Finance and Accounts Committee and to the Executive Council.

(6) The duties of the Finance and Accounts Officer shall be, to-

- (i) exercise general supervision over the funds of the University and advise the Vice-Chancellor as regards the finances of the University;
- (ii) hold and manage the funds, property and investments, including trust and endowed property, for furthering any of the objects of the University;
- (iii) ensure that the limits fixed by the University for recurring and non-recurring expenditure for a year are not exceeded, and that all allocations are expended for the purposes for which they are granted or allotted;
- (iv) keep watch on the state of the cash and bank balances and of investments;
- (v) keep watch on the progress of collection of revenue and advise the Vice-Chancellor on the methods to be employed for collection;
- (vi) have the accounts of the University audited regularly;
- (vii) ensure that the registers of buildings, land, equipments and machinery are maintained in order and that the stock taking of equipments and other consumable materials in all offices, colleges, workshops and stores of the University is conducted regularly;
- (viii) call for from any office, centre, laboratory, college or department of the University or University institution, any information and returns that he thinks necessary for the proper discharge of his financial responsibilities; and

- (ix) exercise such other powers, perform such other duties and discharge such other financial functions as are assigned to him by the Vice-Chancellor from time to time.

Manner of
appointment
of Registrar,
Director
(Research)
University
Librarian,
Finance and
Accounts
Officer.

18. (1) The Registrar, the Director (Research), the University Librarian and the Finance and Accounts Officer shall be appointed on being selected by the Selection Committee constituted under clause (ii) of sub-section (2).

(2) The appointment of the officers referred to in sub-section (1) shall be made in accordance with the following provisions, namely:-

(i) The appointment to the post of the Registrar, the Director (Research) and the University Librarian shall be made by direct selection on the basis of the guidelines of the University Grants Commission and the appointment of the Finance and Accounts Officer shall be made either by direct selection or by deputation of an officer from the State Government in accordance with the rules for the time being in force.

(ii) The State Government shall constitute a Selection Committee consisting of the following members, namely:-

- (a) the Vice-Chancellor who shall be the Chairman,
- (b) an officer nominated by the State Government, and
- (c) four persons having knowledge and experience in the subjects related to the officer to be selected, nominated by the Vice-Chancellor,
- (d) one member shall be nominated by the Executive Council.

(iii) The Selection Committee shall not select a person for appointment unless at least two out of four persons referred to in sub-clause (c) of clause (ii) are present at the time of the process of selection by the committee.

(iv) The person selected by the committee shall be appointed after obtaining concurrence from the State Government.

(v) The qualifications and emoluments to be paid to the officers referred to in clause (i) shall be such as recommended by the University Grants Commission in the case of the Registrar, the University Librarian and in the case of the Director (Research) and the Finance and Accounts Officer shall be such as approved by the State Government from time to time.

CHAPTER IV AUTHORITIES OF UNIVERSITY.

19. The following shall be the authorities of the University, namely:-

Authorities of
University.

- (i) the Executive Council,
- (ii) the Academic Council,
- (iii) the Faculties,
- (iv) the Finance and Accounts Committee,
- (v) such other Boards and bodies of the University as may be declared by the regulations to be authorities of the University.

Executive
Council.

20. (1) The Executive Council shall be the principal executive authority of the University and shall consist of the following members, namely:-

- (i) the Vice-Chancellor - *ex-officio*, the Chairman;
- (ii) the Secretary to Government, Education Department, Government of Gujarat, *ex-officio*;
- (iii) the Commissioner of Higher Education, Gujarat State or an officer not below the rank of the Joint Director of Higher Education nominated by the Commissioner, *ex-officio*;
- (iv) two eminent persons to be nominated by the Chancellor from amongst persons who have made significant contribution in the field of Sanskrit and its literatures;
- (v) two distinguished scholars to be nominated by the State Government from amongst persons who have made significant contribution in the field of Sanskrit and its literature;
- (vi) one Dean of the Faculty nominated by the Vice-Chancellor from amongst the Deans of Faculties by rotation in such manner as may be prescribed;
- (vii) one of the principal of the colleges nominated by the Vice-Chancellor amongst the principals of the colleges in such manner as may be prescribed.

(2) The term of the nominated members of the Executive Council shall be for a period of three years.

Powers and
duties of
Executive
Council.

21. (1) The Executive Council shall exercise the following powers and perform the following duties, namely :-
- (i) to hold, control and administer the property and funds of the University;
 - (ii) to enter into, vary, carry out or cancel contracts on behalf of the University;
 - (iii) to determine the form and provide for the custody and regulate the use of the common seal of the University;
 - (iv) to pass the annual financial estimates of the University;
 - (v) to sanction re-appropriation of grant or fund from one head to another head, limited to twenty-five per cent. of the total allocation made under the concerned heads;
 - (vi) to accept, on behalf of the University, trusts, endowments, bequests, donations and transfer of any movable or immovable property to the University;
 - (vii) to manage and regulate the finances, accounts and investments of the University;
 - (viii) to fix, demand and receive such fees and other charges as may be prescribed by the regulations in accordance with the guidelines prescribed by the State Government;
 - (ix) to create post of teachers, other employees and officers other than Chancellor, the Vice-Chancellor and to lay down and regulate pay-scales, allowances and conditions of service of such teaching, non-teaching staff and other employees and officers;
 - (x) to borrow, with the approval of the State Government whether on the security of the property of the University or otherwise moneys for the purposes of the University;
 - (xi) to acquire and hold property both movable and immovable and to sanction the transfer, lease and mortgage, sale or disposal of the same under the intimation to the State Government;
 - (xii) to cause an inspection or an inquiry to be made in respect of any matter concerning the conduct, working and finance of colleges, institutions or departments of the University;
 - (xiii) to regulate and provide for attendance of the teachers on the premises of the University or colleges or institutions during teaching hours and beyond teaching hours and to prohibit teachers

from taking or conducting private tuition or private coaching classes;

- (xiv) to establish, maintain and manage, whenever necessary-
 - (a) Information Bureau,
 - (b) Distance Education Department, Continuing Education Department, and
 - (c) such other activities, as may be necessary and possible, to fulfill the objects of the University;
- (xv) to co-operate or collaborate with any other University, institution, authority or organisation for research and advisory services, and for such purposes to enter into appropriate agreement with them to conduct certain courses, as the situation may demand;
- (xvi) to evolve an operational scheme for ensuring accountability of teachers, non-vacation academic staff and non-teaching staff of the University, institutions and colleges;
- (xvii) to build and recognise hostels and inspect such hostels and to withdraw recognition;
- (xviii) to institute and award fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes;
- (xix) to fix remuneration of examiners and to arrange for the conduct and for publishing the results of the University examinations and other tests;
- (xx) to make provisions for instruction, teaching and training in such branches of learning and courses of study as it may think fit, for research and for the advancement and dissemination of knowledge;
- (xxi) to make such provisions which enables affiliated or recognised or approved institutions to undertake specialisation in studies;
- (xxii) to organise and make provisions for language laboratories, libraries, archives, museums and other equipments for teaching and research;
- (xxiii) to establish, manage and maintain departments, colleges, schools, institutions of higher learning and institutions of research and specialised studies, library and hostels;
- (xxiv) to institute and confer degrees, titles, diplomas and other academic distinctions and to recommend for and conferment of honorary degrees and academic distinctions in such manner as may be prescribed;

- (xxv) to make, amend or repeal the regulations;
- (xxvi) to make provisions relating to the use of *Sanskrit*, Gujarati and English languages, as the media of instruction and examination;
- (xxvii) to assess the feasibility of and take decision on proposals for affiliation of a college or a recognition or approval of institution, a University department or a University college entitling it to privileges in the matters of admission of students, prescribing the courses of study, imparting instruction, teaching and training in the courses of study, the holding and conduct of examination and power to make necessary rules for the purpose and withdrawal thereof;
- (xxviii) to assess the feasibility of proposals received from the Academic Council for new academic programmes and courses and approve diplomas, degrees, certificates and other academic distinctions;
- (xxix) to arrange for, and to direct, the inspection of affiliated colleges, recognised institutions, approved institutions and hostels, to issue instructions for maintaining their efficiency and for ensuring proper conditions of employment for members of their staff, and in case of disregard of such instruction to modify the conditions of their affiliation or recognition or to take such other steps as deemed proper;
- (xxx) to supervise and control the residence, conduct and discipline of the students of the colleges, University departments and recognised and approved institutions and arrangements for promoting their health and general welfare and disciplinary action against the students;
- (xxxi) to recommend to the State Government for the withdrawal or reduction of grant to a college which makes default in carrying out the conditions of affiliation;
- (xxxii) to recognise a member of the staff of an affiliated college or recognised institution or approved institution as a professor, a reader, a lecturer or a teacher of the University and withdraw such recognition;
- (xxxiii) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or under the regulations;
- (xxxiv) to exercise all powers of the University not otherwise provided for in this Act or the Regulations and all other powers which are required to give effect to the provisions of this Act or the Regulations.

(2) The exercise of powers by the Executive Council under sub-section (1) in so far as they relate to the laying down and regulating the salary scales and allowances, borrowing moneys, transferring, leasing, selling or disposing, mortgaging of any property of the University and creating posts, shall be subject to the prior approval of the State Government, if the expenditure is to be met with from Government fund.

(3) The powers and duties by the Executive Council in all academic matters under sub-section (1) shall not be exercised except upon the recommendation made by the Academic Council.

22. (1) The Academic Council shall be the academic body of the University and shall consist of the following persons, namely:-

Academic Council.

- (i) the Vice-Chancellor - *ex-officio*, Chairman,
- (ii) the Secretary to Government, Education Department, *ex-officio*,
- (iii) the Commissioner of Higher Education, Gujarat State or an officer not below the rank of the Joint Director of Higher Education nominated by the Commissioner, *ex-officio*,
- (iv) the Commissioner of Schools, Gujarat State or an officer not below the rank of the Joint Director of Schools Education,
- (v) the Chairman, Gujarat State Examination Board, *ex-officio*,
- (vi) five eminent persons to be nominated by the Chancellor who have made significant contribution in the field of Sanskrit, out of whom one shall be a woman and one shall be an eminent person from out of the State of Gujarat,
- (vii) five distinguished persons to be nominated by the State Government from amongst distinguished or eminent persons who have made significant contribution in the field of Sanskrit and its literature, out of whom one shall be a woman and one shall be a distinguished person from out of the State of Gujarat,
- (viii) two eminent scholars to be nominated by the Vice-Chancellor,
- (ix) four Deans of Faculties to be nominated by the Vice-Chancellor from amongst the Deans of Faculties by rotation in such manner as may be prescribed,

- (x) one principal of the college nominated by the Vice-Chancellor from amongst the principals of the colleges by rotation in such manner as may be prescribed,
- (xi) one teacher of the affiliated college nominated by the Vice-Chancellor from amongst the teachers of the affiliated colleges,
- (xii) one teacher of the recognised or approved institution nominated by the Vice-Chancellor from amongst the teachers of the recognised or approved institution,
- (xiii) one woman teacher of the affiliated college, recognised or approved institution from amongst the women teachers of the affiliated colleges, recognised or approved institutions,
- (xiv) the Director (Research).

(2) As soon as the Academic Council is constituted under sub-section (1), it may co-opt two eminent persons who are experts in any of the subjects taught in the University, as its additional members, whether they are or are not connected with the University as its members, teachers or otherwise.

(3) The term of office of the nominated members of the Academic Council shall be for a period of three years.

23. (1) The Academic Council shall have the control and general regulation of, and be responsible for, the maintenance of the standards of teaching and examinations conducted by the University.

Powers and duties
of Academic
Council.

(2) Without prejudice to the generally of the foregoing provisions and subject to such conditions as may be prescribed by or under the provisions of this Act, the Academic Council shall consider and approve the draft regulations and recommend the Executive Council to make regulations on the following matters, namely:-

- (i) academic matters including laying down courses of study on the different subjects, as proposed by the concerned Faculty;
- (ii) special courses of study as proposed by the Faculty;
- (iii) co-ordination of studies and teaching in affiliated colleges, recognised institutions and approved institutions;
- (iv) allocation of subjects to the Faculties;

- (v) the establishment of Faculties, University Departments, institutions of research and specialised studies, libraries and language laboratories;
 - (vi) the institution of professorships, readerships, lectureships and any other posts of teachers required by the University and for prescribing the duties of such posts;
 - (vii) the institution of fellowships, traveling fellowships, scholarships, studentships and medals and other awards and to make regulations for their award;
 - (viii) the conduct of examinations of the University and the conditions on which students shall be admitted in such examination;
 - (ix) the equivalence of examinations;
 - (x) the manner of grant of exemption from approved courses of study in the University or in affiliated colleges for qualifying for degrees, diplomas and certificates;
 - (xi) affiliation of a college and recognition or approval of an institution;
 - (xii) the institution, conferment and grant of degrees, diplomas and certificates and the conferment of honorary degrees and other academic distinctions, in such manner as may be prescribed.
- (3) The Academic Council shall promote research in the subject taught in the University and such other matters as may be prescribed.
- (4) The Academic Council shall exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or under the regulations.

Faculties. 24.

- (1) The University shall have the following Faculties:-
- (a) Faculty of *Sahitya* (including *Vedic* study, Sanskrit language and its literature),
 - (b) Faculty of *Darshan* (Indian Philosophy),
 - (c) Faculty of Indian culture and Fine Arts including tradition of folklore of the State of Gujarat.
 - (d) Faculty of Teachers' training (*Shikshak-Prashikshan*),

- (e) Faculty of modern science and ancient *shastras* such as *Dharmashastra*, *Puranas*, *Ayurved*, *Astronomy*, *Manuscriptology*, *Epigraphy*, *Physics* and *Chemistry*,
- (f) Faculty of a comparative study,
- (g) Such other Faculties as may be prescribed to meet with the objects and functions of the University.

Each faculty shall comprise of such subjects as may be prescribed by the regulations.

(2) Each Faculty shall consist of -

- (i) Dean of the Faculty, who shall be nominated by the Vice-Chancellor from amongst University teachers and college teachers by rotation in such manner as may be prescribed,
- (ii) three teachers nominated by the Vice-Chancellor from the University Departments other than the Deans of Faculty and colleges,
- (iii) two persons to be co-opted by the Faculty in respect of each Department in the Faculty from amongst such persons who are experts in the subjects dealt with by the Department.

(3) The term of the office of a member of a Faculty shall be such as may be prescribed by the regulations.

25. (1) Each Faculty shall have the general control and power of regulation of, and be responsible for, the maintenance of standards of teaching and examinations of the University for subjects comprised in it. Powers and duties of the Faculty.

(2) Without prejudice to the generality of the foregoing provisions and subject to such conditions as may be prescribed by or under the provisions of this Act, the Faculty shall consider and refer the following matters to the Academic Council for recommending the Executive Council to make regulations on those matters, namely: -

- (i) laying down courses of study in the Faculty;
- (ii) the special courses of study in the Faculty;
- (iii) the standards of passing the relevant examinations in the Faculty and for awarding classes at such examinations;

- (iv) for promoting research in the subjects assigned to the Faculty;
- (v) allocation of subjects to the Faculty;
- (vi) the establishment of departments, institutions of research and specialised studies, libraries, laboratories and museums concerned with the Faculty;
- (vii) the institution of professorships, readerships, lecturerships and any other posts of teachers in the Faculty and for prescribing the duties of persons occupying such posts;
- (viii) the institution of fellowships, travelling fellowships, scholarships, studentships, medals, prizes and other awards and to make Regulations for their grant;
- (ix) the maximum work load of teachers, the minimum teaching work for every subject and the minimum laboratory work and any other prescribed work to be done by students for any subject in the Faculty;
- (x) the equivalence of examinations;
- (xi) the manner for granting exemption from approved courses of study in the University or in affiliated colleges for qualifying for degrees, diplomas and certificates in the Faculty;
- (xii) to refer such other matters for the furtherance of the objects of the University.

Deans of
Faculties.

26. (1) The Vice-Chancellor shall nominate Dean of each Faculty by rotation in such manner as may be prescribed from amongst persons who are the Heads of University Departments:

(2) The Dean shall hold office for a term of three years.

(3) The Dean shall be the principal executive authority of the Faculty, and shall exercise the following powers and discharge the following duties, namely:-

- (i) he shall be the Chairperson of the Faculty and shall preside at its meetings;
- (ii) he may attend the meeting of the Faculty;
- (iii) he shall supervise and co-ordinate the work of the different the Faculty;

- (iv) he shall plan and organise seminars, refresher courses and workshops, pertaining to the subjects under the Faculty;
- (v) he shall inspect and guide the University Departments, affiliated colleges, recognised institutions and approved institutions in respect of subjects under the Faculty; and in case where he considers it necessary to do so, also make a report of such inspection to the Vice-Chancellor;
- (vi) he shall be responsible for the due observance of the Regulations relating to the Faculty.

27. (1) The University shall constitute a Finance and Accounts Committee.

Finance and
Accounts
Committee
and its
functions.

(2) The constitution of committee, the term of office of its members and the procedure to be followed by it shall be such as may be prescribed.

(3) The Finance and Accounts Committee shall discharge the following functions, namely:-

- (a) to review the expenditure incurred by the University;
- (b) to ensure proper utilization of the money by the University according to budget provisions;
- (c) to review the position of financial resources of the University;
- (d) to formulate budget programmes;
- (e) to recommend economy in administrative expenses;
- (f) to perform such other functions relating to accounts and audit of the revenue and expenditure of the University as may be assigned to it by the Executive Council; and
- (g) to advise the Executive Council in financial matters whenever such advice is sought by the Executive Council.

CHAPTER V FINANCE

28. (1) The University shall establish a fund to be called the University Fund.

University
Fund.

(2) The following shall form part of, or be paid into, the University Fund:-

- (a) any contribution or grant by the State Government, the Central Government, or the University Grants Commission;
- (b) The income of the University from all sources including income from fees and charges;
- (c) loans, gifts, donations, endowments, benefactions, bequests and other grants, if any, or transfers;
- (d) any sum borrowed from the banks with the permission of the State Government;
- (e) all moneys received by the University in any other manner or from any other source.

(3) The University Fund shall be kept in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 at the discretion of the Executive Council on the recommendations of Finance Committee.

II of 1934.

(4) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions in such manner as may be prescribed.

Annual
Accounts,
audit and
financial
estimates.

29. (1) The annual accounts of the University shall be prepared and audited under the direction of the Finance Committee and shall be submitted to the Executive Council for review.

(2) The Executive Council shall, after the accounts are audited, submit a copy thereof along with a copy of the audit report to the State Government.

(3) The Executive Council shall, having regard to the Government grants that are likely to be available, prepare before such date as may be prescribed, the financial estimates for the ensuing year.

(4) The annual accounts shall be considered by the Executive Council at its meeting and may pass resolutions with reference thereto and communicate the same to the Finance and Accounts Committee which shall take them into consideration and take such action thereon as it thinks

fit, and finally adopt the accounts. The Finance and Accounts Committee shall inform the Executive Council at its next meeting of the action taken by it or if no action is taken, the reasons for taking no action.

(5) The State Government may conduct the test audit or full audit of the accounts of the University by the auditors appointed by the State Government, when it requires so to do.

Annual
report.

30. The University shall prepare for each financial year, the annual report of the University in such form, containing such particulars, as the Executive Council may specify and shall be submitted to the State Government.

CHAPTER VI SUPPLEMENTARY PROVISIONS

31. Save as otherwise provided by or under this Act, the conditions of services including pay and allowances of officers, teachers, teaching and non-teaching employee, of the University, colleges, recognised and approved institutions shall be such as may be prescribed.

Conditions
of service.

32. (1) Any officer or employee of University may be suspended, reduced in the rank, removed or his services may be terminated in case of his proved misconduct, improper behavior, negligence in duty, or in case of charges of corruption, mismanagement, wilful default, behavior unbecoming of an officer, or involvement in any kind of activity detrimental to the interests of University at large being proved:

Provisions
relating to
disciplinary
actions for
officers and
employees of
University.

Provided that no officer or employee shall be suspended, reduced in the rank, removed or his services may be terminated by the University unless,-

- (i) an opportunity of being heard is given by the University; and
- (ii) prior concurrence of the State Government is obtained.

(2) An appeal against an order of suspension, reduction in the rank, removal or termination passed under sub-section (1) shall lie to such authority and in such manner as may be prescribed.

33. The University shall furnish to the State Government, the University Grants Commission and other statutory authorities such reports, returns, statements and other information as may be required by them from time to time.

Returns
and information.

34. (1) The State Government shall have power to issue directions to the University, from time to time, as may be required for compliance of the provisions of this Act and the regulations.

Power of
State
Government
to issue
directions.

(2) Without prejudice to the provisions of sub-section (1), the State Government may issue directions, when it requires, in regard to the following matters, namely:-

- (a) fees and charges;
- (b) raising of funds and borrowing money;
- (c) creation of posts and appointments;
- (d) revision of pay-scales and up-gradation of scales.

Acts and proceedings not to be invalidated by vacancies.

35. No act or proceeding of any authority of the University or any committee constituted by this Act or under the regulations shall be invalidated merely by reason of,-

- (a) any vacancy in its membership or any defect in the constitution thereof, or
- (b) any irregularities in its procedure not affecting merits of the case.

Protection of action taken in good faith.

36. No suit or other legal proceedings shall be instituted against or no damages or compensation shall be claimed from, the University, the Director, the authorities or officers of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or regulations made thereunder.

Officers and employees to be public servants.

37. Every officer, teacher and other employees of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Explanation.- For the purposes of this section, any person, who is appointed by the University for a specified period or for a specified work of the University or, who receives any remuneration by way of compensatory allowance or fee for any work done from the University Fund, shall be deemed to be an officer or employee of the University while he is performing and in relation to all matters relatable to the performance of the duties and functions connected with such appointment of work.

Power of State Government to remove difficulties.

38. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in *the Official Gazette*, make such provisions not inconsistent, with the provisions of this Act, as appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of five years from the commencement of this Act.

Filling up of casual vacancies.

39. When any vacancy occurs in the office of a member, (other than an *ex-officio* member) of any authority or other body of the University before the expiry of the term, such vacancy shall be filled, in, as soon as conveniently may be, by the nomination, appointment or co-option, as the

case may be, of a member who shall hold office so long only as the member in whose place he has been nominated, appointed or co-opted, would have held it, if the vacancy had not occurred.

Filling up of
causal vacancies
of Registrar,
Director
(Research),
University
Librarian or
Finance and
Accounts Officer.

40. When the office of the Registrar, the Director (Research), the University Librarian or the Finance and Accounts officer falls vacant or when the Registrar, the Director (Research), the University Librarian or the Finance and Accounts officer by reason of illness or absence or due to any other reasons is unable to perform the duties of his office, the Vice-Chancellor may appoint a suitable person to officiate to the respective post, until the respective officer is appointed and assumes office or, as the case may be, the respective officer resumes duties.

41. The University shall make provisions for the benefit of its officers, teachers and other employees in matters such as insurance, pension, provident fund or other benefits as it may deem fit, in such manner and subject to such conditions as may be prescribed. Pension, insurance and provident fund.

42. (1) The governing body of any affiliated college shall make adequate provisions for the benefit of the members of the teaching and of other academic and non-teaching staff of such college or of staff of recognised or approved institution in the matters of pension, insurance and provident fund or for other benefits. Pension, insurance and provident fund of staff of colleges, etc.

(2) The subscription of a member of a teaching staff and of other academic and non-teaching staff of an affiliated college or of a recognised institution towards his provident fund and the contribution, if any, of the college or, as the case may be, of the institution towards the fund shall be deposited in such manner and within such time as may be prescribed, in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934. II of 1934.

43. (1) Where the University has established a provident fund for the benefit of its officers, teachers and other servants, such fund shall, notwithstanding anything contained in any law for the time being in force, be deposited in the State Government treasury in accordance with such direction as the State Government may, from time to time, by an order in writing give, and thereupon – Provident fund to be deposited in Government treasury.

- (i) the subscriber to the fund shall be entitled to interest on the balance in his provident fund account at the same rate at which the State Government servant is for the time being entitled to on the balance in his provident fund account, and
- (ii) the rules for the time being in force relating to the limits of withdrawals from the provident fund as applicable to such Government servant shall, so far as may be, apply to the subscriber.

(2) Nothing in this section shall apply to a Provident Fund established by the University to which the Employee's Provident Funds and X of 1952. Miscellaneous Provisions Act, 1952 applies.

CHAPTER VII COMMITTEES

44. (1) The University may for the purposes of carrying out the provisions of the Act, constitute such committees, as may be required by it. Committees.

(2) The constitution of such committee, the term of office of its members and its powers and functions shall be such as may be prescribed.

CHAPTER VIII ENROLMENT AND DEGREES

Qualifications
for enrolment
of
students of
University.

45. No student shall be enrolled as a student of the University unless he has passed --

- (i) the Higher Secondary School Certificate Examination conducted by the Gujarat Secondary and Higher Secondary Education Board in such subjects and with such standards of attainment as may be prescribed, or
- (ii) the entrance examination, if any, which may be instituted by the University with the consent of the State Government and held in such subjects and in such manner as may be prescribed, or
- (iii) the *Madhyama* in Sanskrit (equivalent to Higher Secondary School Certificate) conducted by the Gujarat State Examination Board, or
- (iv) any other examination prescribed as equivalent to the examinations referred to in clauses (i) and (iii), and possess such further qualifications, if any, as may be prescribed by the Regulations;

Provided that a student who has passed the Secondary School Certificate Examination in the tenth standard conducted by the Gujarat Secondary and Higher Secondary Education Board in such subjects or *Prathama* in the Sanskrit (equivalent to the tenth standard conducted by the Gujarat State Examination Board), and with such standards, of attainment as may be prescribed by the Regulations or any other examination prescribed as equivalent to the aforesaid examination may be enrolled as a student of the University for the purpose of such diploma courses as may be prescribed.

Explanation.- In this section, "Higher Secondary School Certificate Examination" means the examination of the students in the twelfth standard.

Residence of students.

46. The University shall, as far as may be, provide to the students of the University residential accommodation in hostels of the University in accordance with the provisions made by the regulations.

47. The Executive Council may, on the recommendation of the Academic Council institute and confer such degrees, diplomas, certificates and other academic distinctions as may be prescribed.

Degrees, diplomas and other academic distinctions.

48. If, on the recommendation of the Academic Council, not less than two-thirds of the members of the Executive Council recommended that an honorary degree, or other academic distinction be conferred on any person on the ground that he is, in their opinion, by reason of eminent position and attainments a fit and proper person to receive such degree or other academic distinction and the recommendation is confirmed by the Chancellor, the Executive Council may confer on such person the honorary degree or other academic distinction so recommended without requiring him to undergo any examination.

Honorary degree.

49. (1) The Chancellor may, on the recommendation of the Executive Council, withdraw any distinction, degree, diploma or privilege conferred on, or granted to, any person who has been convicted by a court of law for an offence involving moral turpitude or if he has been guilty of gross misconduct, by a resolution passed by majority of the total membership of the Executive Council and by a majority of not less than two-thirds of the members of the Executive Council present and voting.

Withdrawal of degree or diploma.

(2) No action under sub-section (1) shall be taken against any person unless he has been given an opportunity to show cause against the action proposed to be taken.

(3) The resolution so passed by the Executive Council shall take effect immediately and the copy of the same shall be sent to the person concerned.

CHAPTER IX AFFILIATION, RECOGNITION AND APPROVAL

50. (1) A college desirous to be affiliated with the University shall apply to the Registrar in such manner, in such form and with such fees as may be prescribed.

Affiliation.

(2) Such college shall satisfy the Executive Council and Academic Council the need for establishment of a college with the University, management of the Governing body, strength and qualifications of the teaching staff, courses of the instruction, teaching and training to be

undertaken by the college, the infrastructure facility such as building, library, laboratory, the financial resources, recruitment of teaching staff, college principal and such other matters as may be prescribed, for purposes of affiliation.

(3) The Executive Council, after making such inquiry as it thinks fit, records its views in consultation with the Academic Council and may grant or refuse the affiliation.

Where the application or any part thereof is refused, grounds for such refusal shall be stated.

Recognition of institutions of research and specialised studies.

51. (1) The Executive Council shall have the power, after consultation with Academic Council, to recognise any institution of research or specialised studies other than a college as a recognised institution.

(2) A institution desirous to be recognised with the University shall apply to the Registrar in such manner, in such form and with such fees as may be prescribed.

(3) Such institution shall give full information to the Registrar relating to constitution and personnel of the managing body, subjects and courses in regard to which recognition is sought, accommodation, equipment, library facilities and the number of students for whom provision has been or is proposed to be made, the strength of the staff, their qualifications and salaries and the research work done by them, fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipments and for the continued maintenance and efficient working of the institution and such other information as may be prescribed.

(4) The Executive Council, after making such inquiry as it think fit, records its views in consultation with the Academic Council and may grant or refuse the recognition.

Where the application or any part thereof is refused, grounds for such refusal shall be stated.

Approval of institutions.

52. (1) The Executive Council shall have the power to approve any *pathashala* teaching Sanskrit and its literature, to approve as a approved institution.

(2) A *pathashala* desirous to be approved with the University shall apply to the Registrar in such manner, in such form and with such fees as may be prescribed.

(3) Such *pathashala* shall give full information to the Registrar relating to the name, qualifications, experience and work of the teacher under whom approved work or the subject is proposed to be done, constitution and personnel of the managing body, subjects and courses in regard to which approval is sought, accommodation, equipment, library facilities and the number of students for whom provision has been or is proposed to be made, the strength of the staff, their qualifications and salaries and the work done by them, fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipments and for the continued maintenance and efficient working of the institution.

(4) The Executive Council, after making such inquiry as it thinks fit, records its views in consultation with the Academic Council, may grant or refuse the approval.

Where the application or any part thereof is refused, grounds for such refusal shall be stated.

53. (1) Every affiliated college, recognised institution and approved institution shall furnish such reports, returns and other information as the Executive Council may require to enable it to judge the efficiency of the college or institution.

Inspection of colleges and institutions and report.

(2) The Executive Council shall cause every such college or institution to be inspected from time to time by the Inspection Committee.

(3) The Executive Council may call upon any college or institution so inspected to take within a specified period, such action as may appear to it to be necessary in respect of any of the matter with respect to affiliation, recognition or approval referred to in section 50, 51 or, as the case may be, section 52.

54. (1) Every college, recognised or approved institution shall, in respect of the medium of instruction, teaching, training and examination therein, comply with the provisions made in that behalf by this Act, and the Regulations.

Affiliated colleges, recognised and approved institutions to comply with provisions pertaining to medium of instruction and other matters and withdrawal of recognition.

(2) If any affiliated college or recognised or approved institution contravenes the provisions of sub-section (1), then notwithstanding anything contained in the other provisions of this Act -

(a) the rights conferred on such college or institution by the affiliation, recognition, or approval shall stand withdrawn from the date of such contravention; and

(b) such college or institution shall cease to be an affiliated college or recognised or approved institution for the purposes of this Act.

(3) If any affiliated college or recognised or approved institution affected by sub-section (2), raises any dispute as to the withdrawal of its rights of affiliation or recognition or approval, then such dispute shall be referred to the State Government and the State Government shall decide the dispute and its decision shall be final.

55. (1) The rights conferred on a college by affiliation or an institution by recognition may be withdrawn, modified or suspended, if such college has failed to carry out any of the provisions of section 50 or, as the case may be, the recognised institution has failed to observe any of the conditions of its recognition under section 51 is conducted in a manner which is prejudicial to the interests of education.

Withdrawal of
affiliation or
recognition.

(2) A motion for the withdrawal, modification or suspension of such rights referred to in sub-section (1) shall be initiated and decided by the Executive Council. The manner for withdrawal of affiliation or, as the case may be, recognition, shall be such as may be prescribed.

(3) Before any order for withdrawal of the affiliation or, as the case may be, recognition is passed, an opportunity of being heard shall be given to principal of the concerned college or, as the case may be, the head of the institution, in such manner as may be prescribed.

(4) Where by an order, the rights conferred on any college by affiliation or, as the case may be, recognition is withdrawn in whole or in part or modified, the grounds for such withdrawal or modification shall be stated in the order.

Withdrawal
of
approval.

56. (1) The right conferred on an institution by approval may be withdrawn or suspended for any period by the Executive Council if the institution has failed to observe any condition of its approval or the work assigned to it is conducted in a manner which is prejudicial to the interest of education, or the teacher recognised by the University leaves the institution.

(2) Before making an order under sub-section (1) in respect of any approved institution, the Executive Council shall, by notice in writing, give an opportunity of being heard to principal of the concerned institutions in such manner as may be prescribed by the Regulations.

(3) The Executive Council shall, after following the prescribed manner, decide whether the approval should be withdrawn, modified, or, as the case may be, suspended and make an order accordingly.

CHAPTER X REGULATIONS

57. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Executive Council may make regulations for all or any of the following matters, namely:- **Regulations.**

- (i) conferment of honorary degrees,
- (ii) holding of convocations to confer degrees,
- (iii) powers and duties of the officers of the University,
- (iv) constitution, powers and duties of the authorities of the University, save as provided in this Act,
- (v) institution and maintenance by the University Departments, institutes of research or specialised studies, post-graduate centres in affiliated colleges and hostels,
- (vi) acceptance and management of bequests, donations and endowments,
- (vii) registration of graduates and maintenance of register of registered graduates,
- (viii) procedure at meetings of the authorities of the University and for the transaction of their business,
- (ix) qualifications of professors, readers, lecturers and teachers in affiliated colleges and recognised and approved institutions,
- (x) the maximum number of students to be admitted in a college,
- (xi) suitable and adequate physical facilities such as buildings, laboratories, library, books, equipments required for teaching and research, hostels,
- (xii) all matters which by this Act are to be or may be prescribed by the Regulations,
- (xiii) conditions under which students shall be admitted to courses of studies for degrees, diplomas and other academic distinctions,
- (xiv) conditions governing the appointment and the duties of examiners,
- (xv) conduct of examinations.
- (xvi) recognition of teachers of the University,
- (xvii) conditions of residence, conduct and discipline of the students of

the University.

- (xviii) recognition of hostels,
- (xix) inspection of affiliated colleges, recognised institutions, approved institutions and hostels,
- (xx) rules to be observed and enforced by colleges and recognized institutions and approved institutions in respect of transfer of students,
- (xxi) mode of execution of contracts or agreements for, or on behalf of the University, and
- (xxii) generally all matters for which provision is in the opinion of the Executive Council necessary for the exercise of the powers conferred or the performances of the duties imposed upon the Executive Council by this Act or the Regulations.

CHAPTER XI TRANSITORY PROVISIONS

Appointment
of
first Vice-
Chancellor.

58. Notwithstanding anything contained in section 12, the first, Vice-Chancellor shall be appointed by the State Government as soon as practicable after the commencement of this Act for a period not exceeding three years and on such terms and conditions as the State Government thinks fit.

Appointment
of
first
Registrar.

59. Notwithstanding anything contained in section 18, the first Registrar shall be appointed by the State Government as soon as practicable after the commencement of this Act for a period of not exceeding three years and on such terms and conditions as the State Government thinks fit.

Transitory
powers of first
Vice-
Chancellor.

60. (1) It shall be the duty of the first Vice-Chancellor,-
- (a) to give recognition to institutions, if any, as far as possible consistent with the provisions of section 51 ; and
 - (b) to make arrangements for constituting the Executive Council, the Academic Council and other authorities of the University within six months after the date of his appointment or such longer period not exceeding one year as the State Government may, by notification in the *Official Gazette*, direct.

(2) The first Vice-Chancellor shall, with the assistance of the Advisory Committee consisting of not more than fifteen members who are

experts in the field of Sanskrit and its literature, nominated by the State Government,-

- (a) subject to the provisions of this Act, and the approval of the Chancellor –
 - (i) make provisional Regulations necessary for constituting the aforesaid authorities and regulating the procedure at their meetings and the transaction of their business,
 - (ii) draw up rules, that may be necessary for regulating the method of nomination and appointment to the aforesaid authorities,
 - (b) frame the first Regulations, under this Act and submit them for confirmation to the respective authorities when they commence to exercise their functions.
- (3) The authorities constituted under sub-section (1) shall commence to exercise their functions on such date or dates as the State Government may, by notification in the *Official Gazette*, direct.
- (4) The Regulations framed by the first Vice-Chancellor shall, when confirmed by the Executive Council, be published in the *Official Gazette*.

61. (1) At any time after the commencement of this Act, until such time as the authorities of the University shall commence to exercise their functions -

First
appointment
of officers of
University.

- (a) any officer of the University may be appointed by the Vice-Chancellor with the previous sanction of the Chancellor,
- (b) till the Executive Council is constituted, the teachers of the University may be appointed by the Advisory I with the approval of the Chancellor on the recommendation of the Selection Committee consisting of the following persons, namely:-
 - (i) the Vice-Chancellor.
 - (ii) a nominee of the Chancellor,
 - (iii) three persons who are experts in the field of Sanskrit and its literature, to be appointed out of a panel of experts drawn by the Advisory Committee.

(2) Any appointment made under, sub-section (1) shall be for such period not exceeding three years and on such terms and conditions as- the appointing authority thinks fit:

Provided that no such appointment shall be made until financial provision has been made therefor.

Extra-ordinary
powers of first
Vice-Chancellor .

62. The first Vice-Chancellor appointed under section 58 shall have powers until the Executive Council commences to exercise its functions-

- (a) with the previous approval of the Chancellor, to make additional Regulations to provide for any matter not provided for by the first Regulations;
- (b) to constitute provisional authorities and bodies and on their recommendations to make regulations providing for the conduct of the work of the University;
- (c) subject to the control of the State Government, to make such financial arrangements as may be necessary to enable this Act, or any part thereof, to be brought into force;
- (d) with the sanction of the Chancellor, to make for a period not exceeding three years, such appointments as may be necessary to enable this Act or any part thereof, to be brought into force;
- (e) to appoint any committee as he may think fit, to discharge such of its functions as he may direct; and
- (f) generally to exercise all, or any of the powers conferred on the Executive Council by or under the provisions of this Act.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLVII

MONDAY, APRIL 11, 2005/ CAITRA 21, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART IV

The following Act of the Gujarat Legislature, having been assented to by the President on the 30th March, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 26 OF 2005.

(First published, after having received the assent of the President in the "Gujarat Government Gazette", on the 11th April, 2005).

AN ACT

further to amend the Indian Stamp Act, 1899 in its application to the State of Gujarat.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

- | | | | |
|------------|----|--|---------------------------------------|
| 2 of 1899. | 1. | This Act may be called the Indian Stamp (Gujarat Amendment) Act, 2005. | Short title. |
| | 2. | In the Indian Stamp Act, 1899 in its application to the State of Gujarat, after section 9, the following new section shall be inserted, namely:- | Insertion of section 9A in 2 of 1899. |

Power of State Government to consolidate duties in respect of receipts.

“9A. The State Government may, by order published in the *Official Gazette*, provide for consolidation of duties in respect of any receipts or class of receipts given by any person (including any Government), subject to such conditions as may be specified in the order.”

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRA ORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI]

MONDAY, MAY 16, 2005/VAISAKHA, 26, 1927

Separate paging in given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

BY THE SR. MANAGER, GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

Corrigendum

No. Corri.-1 of 2005.-In the Centre for Environmental Planning and Technology University Act, 2005 (Guj. Act No. 24 of 2005) published in Part IV Ex. No. 24 of the Gujarat Government Gazette, Extraordinary, dated the 1st April, 2005 on pages 24-1 to 24-18-

- (1) for "Hemachandracharya" wherever it occurs, *read* "Hemchandracharya";
- (2) on page 24-2, in line four, for "institutions", *read* "institution";
- (3) on page 24-7, in section 9(4)(i), for "one shall be the Chairman of the CEPT Trust", *read* "one shall be the Member of the Ahmedabad Education Society";
- (4) on page 24-9,-
 - (i) in section 15(2), in the first line, for "to obtain", *read* "to obtain information";
 - (ii) in section 16(1)(ix), for "Council of", *read* "Council for";
- (5) on page 24-11,-
 - (i) in section 19(3), in the first line, for "provision", *read* "provisions";
 - (ii) in section 19(3)(i), for "center", *read* "centre";
- (6) on page 24-12,-
 - (i) in section 20(3), for "the members shall be for aperiod", *read* "the nominated members shall be for a period";
 - (ii) in section 21(3), for "the members other than the *ex-officio* member", *read* "the nominated members";
- (7) on page 24-13,-
 - (i) in section 22(2)(iii), for "Council of", *read* "Council for";
 - (ii) in section 22(2)(vi), for "monies", *read* "moneys";
- (8) on page 24-15,-
 - (i) in section 23, in the fourth line, for "under sub-section(4) of the", *read* "under the";
 - (ii) in the marginal note, for "22 of 1986", *read* "Guj. 22 of 1986";

Dated the 16th May, 2005.

V. H. LACHANI,
Sr. Manager,
Government Central Press,
Gandhinagar



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] TUESDAY, AUGUST 23, 2005/BHADRA 1, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

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and Regulations made by the Governor.

BY THE SENIOR MANAGER, GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

Corrigendum

No. : Reading Gazette 8-05-Part IV-Ex. 19/23-3-05.--In the Ganpat University Act, 2005 (Guj. 19 of 2005) published in Part IV, Extra No. 19 of the Gujarat Government Gazette, Extraordinary, dated the 23rd March, 2005, on page No. 19-19 in section 37, in Line (4), for the words "V. N. Patel College of Management Studies", read "V. M. Patel College of Management Studies".

Dated : 23rd March, 2005

SENIOR MANAGER,
Government Central Press,
Gandhinagar.

IV- Ex. 28-1

28-1

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI]

THURSDAY, SEPTEMBER 15, 2005/BHADRA 24, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

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Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 15th September, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 27 OF 2005.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*" on the 15th September, 2005).

AN ACT

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Bombay Electricity Duty (Gujarat Second Amendment) Act, 2005.
- (2) It shall come into force on the 1st October, 2005.

Short title
and
commence
ment.

Amendment of
Section 3 of Bom.
XL of 1958.

2. In the Bombay Electricity Duty Act, 1958 (hereinafter referred to as "the principal Act"), in section 3,- Bom. XL of 1958.

(1) in sub-section (1), for the brackets, figures and letters "(2A), (2AA), (2AAA)", the brackets, figures and letters "(2AA), (2AAA), (2B)" shall be substituted;

(2) in sub-section (2), for clause (vii) and the *Explanation* thereunder, the following clause and *Explanation* shall be substituted, namely:-

"(vii) for motive power and lighting in respect of premises used by a new industrial undertaking for industrial purpose, subject to such terms and conditions as may be prescribed, for a period of five years from the date on which such industrial undertaking begins to manufacture or produce goods for the first time;

Provided that no new industrial undertaking shall be entitled for exemption from payment of electricity duty under this clause, unless it has obtained a certificate regarding eligibility for such exemption in prescribed form by making an application therefore in such form, within such period and to such officer as may be prescribed.

Explanation. - For the purpose of this clause "a new industrial undertaking" means any industrial undertaking which-

(a) is not formed by the splitting up or the reconstruction of a business or undertaking already in existence in the State; or

(b) is not formed by transfer to a new business or undertaking of a building, machinery or plant previously used in India for any industrial purpose, of such value in relation to total value of the aforesaid investments, as the State Government may, by notification in the *Official Gazette*, specify; or

(c) is not an expansion of the existing business or undertaking in the State.";

(3) after sub-section (2AAA), the following sub-section shall be inserted, namely:-

"(2B) (a) Nothing contained in this Act as amended by the Bombay Electricity Duty (Gujarat Second Amendment) Act, 2005 (hereinafter referred to as "the amending Act of 2005") shall affect any exemption granted to an existing industrial undertaking before the 1st October, 2005 and such exemption shall continue for the period provided in clause (vii) of sub-section (2) as if the amending Act of 2005 was not passed.

(b) Notwithstanding anything contained in clause (vii) of sub-section (2) as amended by the amending Act of 2005, any existing industrial undertaking which was eligible for exemption under the provisions of clause (vii) of sub-section (2) before the 1st October, 2005 but which did not avail of such exemption before that date shall be eligible for such exemption under the said clause (vii) as if the amending Act of 2005 was not passed.

Explanation.- For the purpose of this sub-section, an existing industrial undertaking means an industrial undertaking which exists on the 1st October, 2005 and which manufactures or produces goods but does not include an undertaking which manufactures or produces any kind of food and drinks meant ordinarily for consumption on the premises of the undertaking.”.

3. In the principal Act, in section 4, in sub-section (3A), in clause (b), for the words “five years in aggregate”, the words “five years in aggregate, if deferment is allowed for hundred per cent. of the payment liability of electricity duty and not exceeding seven years in aggregate, if deferment is allowed for fifty per cent. of the payment liability of electricity duty” shall be substituted.

Amendment
of section
4 of Bom.
XL of 1958.

4. In the principal Act, section 8 shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be added, namely:-

Amendment
of section
8 of Bom.
XL of 1958.

“(2) Where any sum due on account of electricity duty is collected by the licensee but not paid to the State Government within a period of six months from the due date of payment thereof, such licensee shall also be liable to pay penalty on such sum (not exceeding 12 per cent. per annum) as the State Government may, by general or special order fix and the sum together with interest and penalty shall be recoverable either through a civil court or as an arrears of land revenue.

(3) Where any sum due on account of electricity duty is paid by the consumer but the interest due thereon is not paid by such consumer within six months from the date of such payment, such consumer shall also be liable to pay penalty (not exceeding 12 per cent. per annum) on such sum as the State Government may, by general or special order fix and such sum together with interest and penalty shall be recoverable either through a civil court or as an arrears of land revenue.

(4) Where the consumer or, as the case may be, the licensee is liable to pay electricity duty, penalty or interest and he makes payment of an amount which is less than the aggregate of the amount of electricity duty, penalty and interest, the amount so paid shall be first applied towards the amount of interest, thereafter the

balance, if any, towards the amount of penalty and thereafter the balance if any, towards the amount of electricity duty.

(5) The State Government may, by general or special order, waive the whole or any part of interest or penalty payable under this section in such circumstances, on such terms and conditions and for such period as may be prescribed.”

Amendment of
section 9 of
Bom. XL of
1958.

5. In the principal Act, in section 9, for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of
section 12 of
Bom. XL of
1958.

6. In the principal Act, in section 12, in sub-section (2),-

(1) before clause (a-1), the following clause shall be inserted, namely :-

“(a-2) prescribe the terms and conditions subject to which new industrial undertaking shall be entitled for exemption from payment of electricity duty under clause (vii) of sub-section (2) of section 3;”;

(2) in clause (a-1), after the words “within which”, the words “and the officer to whom” shall be inserted;

(3) after clause (d), the following clause shall be inserted, namely :-

“(dd) prescribe the circumstances in which, the terms and conditions subject to which and the period for which the interest or penalty may be waived under sub-section (5) of section 8;”.

Amendment of
Schedule II of
Bom. XL of
1958.

7. In the principal Act, in Schedule II, in Part I, for the item (5) and the *Explanation* thereunder, the following item and the *Explanation* shall be substituted, namely :-

“(5) For energy consumed by an industrial undertaking not being an undertaking to which item (2) or (4) applies, other than energy consumed in respect of any of its premises used for residential purposes. 40 paise per unit.

Explanation. - Any energy consumed by the industrial undertaking for installation of additional plants, machineries and equipments of such industrial undertaking shall be construed as energy consumed by the industrial undertaking.”



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVI] THURSDAY, SEPTEMBER 15, 2005/BHADRA 24, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

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Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 28 OF 2005.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*" on the 15th September, 2005).

AN ACT

further to amend the Bombay Sales of Motor Spirit Taxation Act, 1958.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. This Act may be called the Bombay Sales of Motor Spirit Taxation (Gujarat Amendment) Act, 2005.

Short title.

Bom. LXVI of
1958.

2. In the Bombay Sales of Motor Spirit Taxation Act, 1958 (hereinafter referred to as "the principal Act"), in section 2, after clause (j), the following clause shall be inserted, namely :-

Amendment
of section
2 of Bom.
LXVI of
1958.

"(jj) "tax" means tax, additional tax and turnover tax leviable and payable under this Act;"

3. In the principal Act, after section 6, the following section shall be inserted, namely :-

Insertion of
new section
6A in Bom.
LXVI of 1958.

Liability to pay
interest on
delayed
payment.

“6A. (1) Where a trader does not pay the amount of tax within the time prescribed for the payment, there shall be paid by such trader, for the period commencing on the date of expiry of the time prescribed for its payment and ending on date of payment of the amount of tax, simple interest at such rate, not exceeding eighteen per cent. per annum, as may be prescribed, on the amount of tax not so paid or any less amount thereof remaining unpaid during such period.

(2) Where the amount of tax assessed for any period under section 6, subject to appeal under section 16, revision under section 17 or reference under section 21, if any, exceeds the amount of tax already paid by a trader for that period, there shall be paid by such trader, for the period commencing from the date of expiry of the time prescribed for its payment and ending on date of order of such assessment, appeal, revision or, as the case may be, reference, if any, simple interest at such rate, not exceeding eighteen per cent. per annum as may be prescribed, on the amount of tax not so paid or any less amount thereof remaining unpaid during such period.

(3) Where a trader is liable to pay interest under section 6A and he makes payment of an amount which is less than the aggregate of the amount of tax, penalty and interest, the amount so paid by the trader shall be first applied towards the amount of interest, thereafter the balance, if any, towards the amount of penalty and thereafter the balance, if any, towards the amount of tax.

(4) The State Government may, by general or special order, waive the whole or any part of interest payable under this section in such circumstances, on such terms and conditions and for such period as may be prescribed.”.

4. In the principal Act, in section 36, in sub-section (2), after clause (b), the following clauses shall be inserted, namely :-

“(bb) the rate at which the interest shall be charged under sub-sections (1) and (2) of section 6A;

(bbb) the circumstances in which, the terms and conditions on which and the period for which the interest may be waived under sub-section (4) of section 6A;”.

5. In the principal Act, in section 37 and the marginal note thereof, for the word “fees”, the words “fees, interest” shall be substituted.

Amendment of
section 36 of
Bom. LXVI of
1958.

Amendment of
section 37 of
Bom. LXVI of
1958.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII THURSDAY, SEPTEMBER 15, 2005/BHADRA 24, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 15th September, 2005 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 29 OF 2005.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*," on the 15th September, 2005).

AN ACT

further to amend the Gujarat Entertainments Tax Act, 1977.

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

- | | |
|---|---|
| <p>1. (1) This Act may be called the Gujarat Entertainments Tax (Second Amendment) Act, 2005.</p> <p>(2) It shall come into force on the 1st October, 2005.</p> | <p>Short title and commencement.</p> |
| <p>2. In the Gujarat Entertainments Tax Act, 1977 (hereinafter referred to as "the principal Act"), in section 2, in clause (g), in item (i), for the word "involving", the words "not involving" shall be substituted.</p> | <p>Amendment of section 2 of Guj. 16 of 1977.</p> |

Guj. 16 of 1977.

Amendment of
section 3 of Guj.
16 of 1977.

3. In the principal Act, in section 3, for sub-section (1), the following shall be substituted, namely :-

- “(1) every payment for admission to an entertainment, a tax, at such rate not exceeding fifty per cent. of such payment, as the State Government may, by notification in the *Official Gazette*, fix, and different rates may be fixed from time to time in respect of different classes of entertainments.”.

Amendment of
section 6 of Guj.
16 of 1977.

4. In the principal Act, in section 6, -

(1) in sub-section (2), -

- (a) for the words “specified area”, the words “rural area other than municipal area having population upto 15,000” shall be substituted;
- (b) after the proviso, the following proviso shall be added, namely :-

“Provided further that any rural area having population upto 15,000 which falls within the radius of five kilometres of the area having population above 15,000 shall also be deemed within the category of the local area with larger population.”;

- (2) in sub-section (3), for the words “the rates specified in Schedule-I”, the words “such rate not exceeding fifty per cent. of the payment for admission, as the State Government may, by notification in the *Official Gazette*, fix, from time to time” shall be substituted;
- (3) in sub-section (5), for the words “the rates specified in Schedule-I”, the words “such rate not exceeding fifty per cent. of the payment for admission, as the State Government may, by notification in the *Official Gazette*, fix, from time to time” shall be substituted;
- (4) in the *Explanation*, item (i) shall be deleted.

Amendment of
section 6A of Guj.
16 of 1977.

5. In the principal Act, in section 6A, in sub-section (3), for clause (d), the following shall be substituted, namely :-

“(d) Where a proprietor has been permitted to pay tax under clause (c), he shall be liable to pay tax in advance latest by the 15th day of the month preceding the month to which the tax relates, at such rate not exceeding fifty per cent. of the payment for admission, as the State Government may, by notification in the *Official Gazette*, fix, from time to time.”.

Deletion of
Schedule I of
Guj. 16 of 1977.

6. In the principal Act, SCHEDULE-I shall be deleted.